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**LOS ANGELES INTERNATIONAL AIRPORT  
AIRPORT FACILITIES USE TERMS AND CONDITIONS**

Naming Rates, Charges, Rules and Regulations at Los Angeles International Airport  
for all Facility Users Using Airport Facility Space  
at Los Angeles International Airport  
after May 17, 2010, Except Pursuant to a Lease

**LOS ANGELES BOARD OF AIRPORT COMMISSIONERS**

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## PREFACE

This UTC is made by the City of Los Angeles, acting by and through the Board of Airport Commissioners (“Board”) of the Los Angeles World Airports (“LAWA”), under the terms of the Los Angeles City Charter & Administrative Code §§ 630 et seq.

LAWA is the manager of the Los Angeles International Airport (the “Airport”), charged by the City of Los Angeles and the Board of Airport Commissioners with operating, managing, and enforcing this UTC.

All charges under this UTC shall be payable in cash as they are incurred unless credit arrangements satisfactory to LAWA have been made in advance, including, but not limited to, the payment of all arrears in accounts with LAWA. Any Facility User or other patron in arrears in its accounts with LAWA may be denied the use of Airport Facility space based thereon.

This UTC is published for the benefit of Facility Users, patrons of the Airport, and Airport staff. It is not a codification of the resolutions of the Board of Airport Commissioners and it should not be construed as such.

# LOS ANGELES INTERNATIONAL AIRPORT AIRPORT FACILITIES USE TERMS AND CONDITIONS

## 1. *Consent to Terms of UTC and Scope of UTC.*

1.1. Name; Defined Terms. This UTC may be referred to as the “Los Angeles International Airport Airport Facilities Use Terms and Conditions” or this “UTC.” Certain terms used in this UTC and not defined elsewhere in the text of this UTC are used with the meanings specified in Section 25; terms defined elsewhere in the text of this UTC are listed in the Index of Defined Terms appearing following the Table of Contents. This UTC includes the Basic Information Schedule.

1.2. Effective Date. This UTC is effective May 17, 2010.

1.3. Use Constitutes Consent. Use by any Facility User of space in any Airport Facility after Board approval of this UTC, except pursuant to a Lease constitutes (a) consent by the Facility User to the terms and conditions of this UTC, and (b) agreement by the Facility User to pay all charges specified, and to be governed by all rules and regulations contained in this UTC.

1.4. Use Does Not Create Any Property Right. Use by any Facility User of space in any Airport Facility under the terms of this UTC creates no right to or interest in the property, either of occupancy or possession, legal or otherwise. This UTC does not in any way modify or replace the Landing Fee or any other fees, charges, rents, or any other cost based on use of the Airport’s runways, apron, or any other location at the Airport other than its Airport Facility by any entity, including the Facility User. Nothing in this UTC shall be construed as creating, modifying, or furthering any property rights, including, but not limited to, a Lease. Any Facility User using space at any Airport Facility pursuant to this UTC may be required by LAWA, in the exercise of LAWA’s discretion, to terminate its use at any time.

1.5. Modification. LAWA may modify this UTC at any time. Any modification of this UTC shall take effect upon the publication by LAWA of the modification on LAWA’s website.

1.6. Facility User Space. For the purposes of the Basic Information Schedule, the space used by a Facility User in any Airport Facility from time to time under the terms of this UTC shall be determined by LAWA, and LAWA’s determination shall, in the absence of manifest error, be binding on the Facility User.

## 2. *Fees and Charges.*

### 2.1. Computation of Fees and Charges.

2.1.1. Computation of Basic Rates. Any Facility User using any space in any Airport Facility without a Lease shall be subject to this UTC and shall pay fees and charges as set forth in this UTC. The amount of those fees and charges shall be calculated for each calendar month in an amount equal to (i) the applicable Land Basic Rate (calculated as provided in this

Section 2.1) for the month multiplied by the square footage of the Land Area for the month, (ii) the applicable Building Basic Rate (calculated as provided in this Section 2.1) for the month multiplied by the square footage of the Building Area for the month, (iii) the applicable Automobile Paving Basic Rate (calculated as provided in this Section 2.1) for the month multiplied by the square footage of the Automobile Paving Area for the month, and (iv) the applicable Aircraft Paving Basic Rate (calculated as provided in this Section 2.1) for the month multiplied by the square footage of the Aircraft Paving Area for the month. The Basic Rates for the calendar month in which a Facility User first uses any space in an Airport Facility pursuant to this UTC is the amount reflected on the Basic Information Schedule as the “Initial Basic Rates”. The Board has established the Initial Basic Rates for each Airport Facility. The Basic Rates are subject to adjustment during each Valuation Cycle as provided in Sections 2.1.2, and as of each Valuation Adjustment Date as provided in Section 2.3.

2.1.2. Adjustments to Basic Rates. For each Valuation Year (other than the first Valuation Year during a Valuation Cycle), the Basic Rates (as the Basic Rates may previously have been adjusted under this Section 2.1.2 and under Section 2.3) shall be increased effective on the first day of the Valuation Year by the CPI Change; provided, however, in no event will the increase to the Basic Rates pursuant to this Section 2.1.2 be less than two percent (2%).

## 2.2. Base Charges.

2.2.1. Monthly Installments. Facility Users subject to this UTC will pay installments of Base Charge in advance on the first day of each calendar month during the Facility User’s use of the Facility User’s Areas, without notice or demand. If the Commencement Date is a day other than the first day of a calendar month, the installment of Base Charge for that month shall be payable on the Commencement Date. The Base Charge for any partial calendar month in which a Facility User uses any Airport Facility space shall be prorated at LAWA’s discretion.

## 2.3. Periodic Valuation Adjustment.

2.3.1. Policy. In order to fairly compensate LAWA for the Facility User’s use of space at any Airport Facility, and in order to avoid an indirect subsidy of the operations of the Facility Users at the Airport by the City of Los Angeles, it is the policy of LAWA that charges for any Facility User subject to this UTC be periodically adjusted to fair market rental value. In order, therefore, to implement this policy, the Basic Rates for each Airport Facility shall be adjusted effective on the fifth anniversary of the Initial Valuation Date for the Airport Facility, and, effective on every fifth anniversary of the Initial Valuation Date thereafter (the date of each adjustment being referred to as an “Valuation Adjustment Date”) in accordance with the provisions of Sections 2.3.2.

2.3.2. Procedures. Not later than the date that is 30 days before the next Valuation Adjustment Date, LAWA will (a) determine the Basic Rates that would be established as of the next Valuation Adjustment Date, and (b) by notice (a “Valuation Notice”) inform the Facility User of the adjusted Basic Rates for the Valuation Cycle beginning on the next Valuation Adjustment Date. The method of determining the Basic Rates reflected in the

Valuation Notice will be final and binding upon the Facility User for the Valuation Cycle beginning on the next Valuation Adjustment Date.

2.4. Facility User's Records. Landlord may, at its discretion and with reasonable notice to the Facility User, require the Facility User to provide, within ten (10) days after the end of each calendar month, a report to the LAWA's Deputy Executive Director – Commercial Development Group, certain operating statistical and financial data applicable to Airport covering the previous calendar month in such form and content as shall reasonably be specified by the LAWA's Deputy Executive Director – Commercial Development Group. LAWA may examine (and, in the course of such examination, may copy) and audit the Facility User's books and records for the purpose of verifying the Facility User's charges paid and payable to the Landlord under this UTC. The expense of any such examination or audit shall be borne by LAWA, provided that if the Facility User's books and records are not made available to LAWA at a location within 50 miles from the Airport, the Facility User will reimburse LAWA the reasonable out-of-pocket costs incurred by LAWA in inspecting the Facility User's books and records, including travel, lodging and subsistence costs. Except as required by applicable law, LAWA will keep all information obtained from the Facility User's books and records confidential, and LAWA will use good faith efforts to cause LAWA's agents and employees to keep all information obtained from the Facility User's books and records confidential.

2.5. Late Charges. If a Facility User subject to this UTC shall fail to pay any installment of Base Charge or any other cost or charge payable under this UTC within five days after it becomes due, the Facility User will pay to LAWA, in addition to the installment of Base Charge or amount of any additional charge, as the case may be, as a further additional charge, a sum equal to interest at the Stipulated Rate on the unpaid overdue amount, computed from the date the payment was due to and including the date of payment. If the Facility User shall fail to pay any additional cost within ten days after it becomes due, in addition to interest at the Stipulated Rate, the Facility User will pay to LAWA a late charge in the amount of five percent (the "Additional Late Charge") of the delinquent additional charge. No Additional Late Charge shall be payable for any item of additional charge that constitutes a late charge or interest.

2.6. No Counterclaim, etc. Facility Users subject to this UTC will pay the Base Charge and all additional costs payable under this UTC without notice, demand, counterclaim, setoff, deduction, defense, abatement, suspension, deferment, diminution or reduction, and the obligations and liabilities of the Facility User under this UTC shall in no way be discharged or otherwise affected for any reason, whether foreseen or unforeseen. To the extent permitted by applicable law, all payments by the Facility User to LAWA made hereunder shall be final, and the Facility User will not seek to recover any such payment or any part thereof for any reason.

2.7. No Waiver; Retroactive Payments. The failure by LAWA to timely execute the provisions of this Section 2 relating to the adjustment of the Base Charge or any item of additional charge payable under this UTC shall not be construed as a waiver of LAWA's ability to adjust the Base Charge or to the adjustment of any additional charges otherwise payable under this UTC. If a determination of the adjusted Base Charge is not completed before the relevant Valuation Adjustment Date or if a determination of the adjustment of any item of additional charge is not completed before any relevant date, the Facility User will continue to pay the amounts applicable to the preceding period, and if the Base Charge as of the relevant Valuation

Adjustment Date or any item of additional charge as of any relevant date is thereafter determined to be an amount greater than that paid by the Facility User, the adjusted amount shall take effect, and shall promptly be paid by the Facility User, retroactively to the date when the payment would have been due absent the failure to timely complete the determination of the appropriate adjustment. If LAWA has substantially executed the provisions of this Section 2 relating to the adjustment, LAWA shall be entitled to receive, in addition to all amounts of additional Base Charge and additional charge becoming retroactively effective, interest on the retroactive amounts from the time retroactively due until the date of payment to LAWA, at an annual rate per annum equal to the Reimbursement Rate.

2.8. Manner of Payment. All payments of Base Charge and other amounts payable under the preceding provisions of this Section 2 shall be paid in U.S. dollars without setoff or deduction by mailing to the following address:

City of Los Angeles  
Department of Airports  
Accounts Receivable  
File 54078  
Los Angeles CA 90054-0078

LAWA may from time to time designate any other address to which the payments shall be made. As a matter of courtesy, invoices may be sent by LAWA to the Facility User, but notwithstanding any custom of LAWA in sending invoices, the receipt of an invoice shall not be a condition to any payment due to LAWA from the Facility User. All payments, including each payment check and remittance advice, shall include reference to this UTC. No payment by the Facility User or receipt by LAWA of a portion of any sum due under this UTC shall be deemed to be other than a partial payment on account of the earliest sum next due from the Facility User. No endorsement or statement on any check or any letter accompanying a check or other payment from an Facility User shall be deemed an accord and satisfaction or otherwise binding upon LAWA. LAWA may accept any partial payment from the Facility User without invalidation of any notice required to be given under this UTC or otherwise under applicable law.

### 3. *Uses.*

3.1. Permitted Uses. Facility Users subject to this UTC may, subject to any applicable Legal Requirements and to all other applicable provisions of this UTC, use the Facility User's Areas only for the uses reflected on the Basic Information Schedule as the "Permitted Uses".

3.2. Prohibited Uses. Notwithstanding anything in Section 3.1 to the contrary, without the prior consent of LAWA no Facility User subject to this UTC may use any portion of the Facility User's Areas in any manner not specifically permitted.

3.3. Other Use Limitations. Facility Users subject to this UTC must conduct their operations at the Facility User's Areas used pursuant to this UTC in such a manner as to reduce as much as is reasonably practicable any and all activities that interfere unreasonably (whether by reason of noise, vibration, air movement, fumes, odors or otherwise) with the use of other facilities at the Airport.

#### **4. *Alterations, etc.***

4.1. LAWA's Consent. Facility Users subject to this UTC have no property interest in any space at any Airport Facility subject to this UTC and therefore may not make any alterations, installations, additions and improvements in and to the Facility User's Areas (referred to as "Alterations") except as provided in Section 4.2.

4.2. Alterations. Facility Users subject to this UTC (although they have no property interest in any space at any Airport Facility subject to this UTC) may, with LAWA's prior written consent only, make Alterations in the Facility User's Areas. LAWA may condition its consent on any basis, including a condition that the Facility User removes some or all of the Alterations at the Facility User's expense.

4.3. Ownership of Improvements and Alterations. Ownership of all improvements, other than the Facility User's Property, existing in the Facility User's Areas on the Commencement Date is and shall be in LAWA. Ownership of all Alterations constructed or installed in the Facility User's Areas by or at the direction of a Facility User (whether at LAWA or the Facility User's expense) after the Commencement Date, other than Facility User's Property, shall be and remain in LAWA. Upon the end of its use of the Facility User's Areas, all Alterations constructed or installed in the Facility User's Areas by or at the direction of an Facility User, other than Facility User's Property, shall be left in the Facility User's Areas (without compensation to the Facility User), unless LAWA requests that the Facility User remove some or all of the Alterations, in which case the Facility User will promptly remove them (excluding only painting and other wall coverings) and restore the Facility User's Area to its original condition at the Facility User's expense. All items of Facility User's Property remaining in the Facility User's Areas shall, if not removed by the Facility User within three Business Days following the end of its use of the Facility User's Areas, be deemed abandoned and shall, at LAWA's election (i) be disposed of in any manner selected by LAWA, at the Facility User's expense, or (ii) become the property of LAWA. The Facility User will promptly repair any damage to the Facility User's Areas resulting from the removal of any items of the Facility User's Property.

4.4. Notices of Non-Responsibility. In connection with any Alteration, LAWA may post notices of non-responsibility for the services and material furnished by mechanics, materialmen and other vendors.

**5. *Maintenance and Repair by Facility Users***. Unless the Facility User and LAWA agree otherwise pursuant to a separate written agreement approved by the Board, at the Facility User's expense, each Facility User subject to this UTC will maintain the Facility User's Areas and will make all repairs to the Facility User's Areas and to all the fixtures, equipment and appurtenances therein as and when needed to preserve them in good working order and good and safe condition. Notwithstanding the foregoing, all damage to the Facility User's Areas and the fixtures, equipment and appurtenances therein requiring structural repairs or requiring repairs that affect the Airport Facility systems, and all damage or injury to any Airport Facility system, caused by or resulting from the negligence of the Facility User, its servants, employees, agents, customers, invitees or licensees, shall be repaired by LAWA, at the Facility User's expense, payable within 15 days after LAWA's delivery of an invoice therefor. If LAWA determines the Facility User to

have failed to maintain equipment in the Facility User's Areas, LAWA may elect to maintain the neglected equipment itself (directly or through third-party contractors and at the Facility User's expense payable promptly after LAWA's delivery of invoices therefor from time to time). All damage or injury to the Facility User's Areas or its fixtures, equipment and appurtenances therein or thereto caused by the Facility User's removal of furniture, fixtures or other property, shall be repaired to its condition existing before the damage or injury, or restored or replaced promptly by the Facility User at its expense. The Facility User will at all times keep the Facility User's Areas free and clear of wastepaper, discarded plastic, graffiti, and all other trash and debris of any kind.

**6. *Liens, etc.*** Facility Users subject to this UTC will not permit to be created or to remain, and will discharge (by payment, filing of an appropriate bond or otherwise), any lien, deed of trust, mortgage or other encumbrance affecting the Facility User's Areas or, to the extent caused or created by the act of the Facility User, the Airport or any part thereof, other than (i) any encumbrance affecting the Facility User's Areas or the Airport and arising solely from any act or omission of LAWA or any Person claiming by, through or under LAWA (other than the Facility User or any Person claiming by, through or under the Facility User), and (ii) inchoate liens of mechanics, materialmen, suppliers or vendors, or rights thereto incurred by the Facility User in the ordinary course of business for sums that under the terms of the related contracts are not yet due. Facility Users subject to this UTC have no property rights in the Facility User's Areas and may not, by lien, deed of trust, mortgage or any other encumbrance, hold themselves out as having such rights or seek to impart such rights to itself or any other party. Notice is hereby given that LAWA shall not be liable for any labor or materials furnished or to be furnished to the Facility User upon credit, and that no mechanics' or other lien for any such labor or materials shall attach to or affect the reversion or other estate or interest of LAWA in and to the Airport, or the Facility User's Areas. Without limiting the generality of Section 8.1 or the remedies available to LAWA for any violation of this UTC under Section 13, if the Facility User does not, within 30 days following the imposition of any lien, deed of trust, mortgage or other encumbrance that the Facility User is required to discharge (any of the foregoing being referred to as an "Impermissible Lien"), cause the Impermissible Lien to be released of record by payment or posting of a proper bond or otherwise, LAWA shall have, in addition to all other remedies provided by law, the right, but not the obligation, upon ten Business Days' prior notice to the Facility User, to cause the Impermissible Lien to be released by such means as LAWA shall deem proper, including payment in satisfaction of the claim giving rise to the Impermissible Lien. All sums paid by LAWA and all expenses incurred by it in connection with the release of the Impermissible Lien, including costs and attorneys fees, shall be paid by the Facility User to LAWA on demand.

**7. *Compliance with Legal Requirements and Insurance Requirements, etc.*** Use of any Airport Facility pursuant to this UTC requires that the Facility User comply with all current and future Legal Requirements and Insurance Requirements that impose any violation or obligation upon LAWA or the Facility User relating to the Facility User's Areas or the use thereof, at the Facility User's expense. Without limiting the generality of the foregoing, the Facility User will, at the Facility User's expense, comply with any Legal Requirement that requires repairs or alterations within the Facility User's Areas so as to cause the Facility User's Areas to comply with the Americans with Disabilities Act, and any other Legal Requirements regarding access of disabled persons to the Facility User's Areas, including any services, equipment, programs or

activities provided by the Facility User. The Facility User will cooperate with LAWA in LAWA's efforts to ensure compliance by the Airport with all applicable Legal Requirements, including Legal Requirements regarding access of disabled persons to the Airport. The Facility User will cooperate with LAWA and participate in and comply with activities organized by LAWA and mandated by any governmental agency, including recycling programs. LAWA will not be liable to the Facility User by reason of any obligation by the Facility User to comply with applicable Legal Requirements.

## **8. *Indemnity; Insurance.***

8.1. Indemnity. Facility Users subject to this UTC shall indemnify LAWA against and hold LAWA harmless from all expenses (including reasonable attorneys' fees and disbursements), liabilities, losses, damages or fines incurred or suffered by LAWA by reason of (i) any breach or nonperformance by the Facility User, or its agents, employees, contractors, customers, and invitees, of any provision of this UTC to be observed or performed by the Facility User, (ii) the carelessness, negligence or improper conduct of the Facility User, or its agents, employees, contractors and invitees, and (iii) all Environmental Losses arising from the Facility User's Application of Hazardous Materials at the Airport. LAWA will promptly notify the Facility User of any claim asserted against LAWA for which the Facility User may be liable under this Section 8.1 and will promptly deliver to the Facility User the original or a true copy of any summons or other process, pleading, or notice issued in any suit or other proceeding to assert or enforce the claim. If the Facility User becomes aware of any claim asserted against LAWA for which the Facility User may be liable under this Section 8.1, and of which the Facility User has not yet been notified by LAWA under the provisions of the immediately preceding sentence, the Facility User will promptly notify LAWA of the claim. If any claim, action or proceeding is made or brought against LAWA for which claim, action or proceeding the Facility User would be liable under this Section 8.1, upon demand by LAWA, the Facility User, at its expense, will defend the claim, action or proceeding, in LAWA's name, if necessary, by such attorneys as LAWA shall approve, which approval shall not be unreasonably withheld. Attorneys for the Facility User's insurance carrier are deemed approved for purposes of this Section 8.1 (and if the Facility User's insurance carrier offers the Facility User more than one choice of counsel, the Facility User will select the counsel provided by the insurance carrier that is reasonably acceptable to LAWA). The Facility User shall, in any event, have the right, at the Facility User's expense, to participate in the defense of any action or other proceeding brought against LAWA and in negotiations for and settlement thereof if, under this Section 8.1, the Facility User may be obligated to reimburse LAWA in connection therewith. LAWA in its discretion may settle any claim against it that is covered by the Facility User's indemnity in this Section 8.1, if LAWA shall first have provided notice to the Facility User of LAWA's intention to settle the claim and the material terms of the proposed settlement and if the Facility User does not object to the proposed settlement within five Business Days of its receipt of the notice (or, if the Facility User receives immediate notice of the offer of settlement and its terms, such lesser time as was given as a condition of the settlement offer). In the case of any claim for which LAWA's proposed settlement includes the payment of more than \$100,000, LAWA may settle the claim over the Facility User's objection unless the Facility User furnishes LAWA with either (i) a bond in an amount equal to the claim in a form and from a surety reasonably satisfactory to LAWA, or (ii) other security reasonably satisfactory to LAWA. For the purposes of this Section 8.1 and any other indemnity by the Facility User in this UTC, any indemnity of LAWA shall be deemed to



include an indemnity of the Board and all of LAWA's officers, employees and agents. In the Facility User's defense, negotiation, compromise, or settlement under this Section of any action against LAWA, LAWA shall retain discretion in and control of the litigation, negotiation, compromise, settlement, and appeals therefrom, as required by the Los Angeles City Charter, particularly Article II, Sections 271, 272 and 273 thereof.

8.2. Insurance. Facility Users subject to this UTC will obtain and keep in full force and effect during its use of the Facility User's Areas, at its expense, policies of insurance of the types, with the coverages and insuring the risks specified in the insurance schedule attached to this UTC as Schedule 1. Based on its periodic review of the adequacy of insurance coverages, LAWA may from time to time, but not more than once each year, in the exercise of its reasonable judgment, revise the types of insurance required to be maintained by the Facility User, the risks to be insured and the minimum policy limits, on 30 days' prior notice to the Facility User. All policies of insurance required to be maintained by the Facility User under this Section 8.2 (a) shall be primary and noncontributing with any other insurance benefiting LAWA where liability arises out of or results from the acts or omissions of the Facility User, its agents, employees, officers, assigns or any other Person acting on behalf of the Facility User, and (b) may provide for reasonable deductibles or retention amounts satisfactory to LAWA based upon the nature of the Facility User's operations and the risks insured. Without limiting the generality of Section 8.1, if the Facility User does not furnish LAWA with evidence of insurance and maintain insurance in accordance with this Section 8.2, LAWA may, but shall not be obligated to, procure the insurance at the expense of the Facility User, in which event the Facility User will promptly reimburse LAWA for any amounts advanced by LAWA in procuring the insurance, together with a charge of 15% of the amounts so advanced for LAWA's administrative costs in so doing. The Facility User will provide proof of all insurance required to be maintained by this Section 8.2 by (a) production of certified copies of the actual insurance policies, (b) use of LAWA's own endorsement forms, (c) broker's letter satisfactory to LAWA in substance and form in the case of foreign insurance syndicates, or by other written evidence of insurance satisfactory to LAWA. 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 Administrative Code of the City of Los Angeles before the Facility User uses the Facility User's Areas. The documents evidencing the coverages shall contain the applicable policy number, the inclusive dates of policy coverages, and the insurance carrier's name, and shall bear an original signature of an authorized representative of the carrier. LAWA has the right to have submitted to it, upon request, all pertinent information about the agent and carrier providing any policy of insurance required by this Section 8.2. Policies of insurance issued by non-California admitted carriers are subject to the provisions of California Insurance Code Sections 1760 through 1780, and any other regulations and directives from the California Department of Insurance or other regulatory board or agency. Unless exempted, the Facility User will provide LAWA with proof of insurance from the non-California admitted carriers through a surplus lines broker licensed by the State of California. The Facility User will promptly furnish LAWA with (i) notice of cancellation or change in the terms of any policy of insurance required to be maintained by this Section 8.2, and (ii) copies of any renewals, replacement or endorsements of or to the policies (and, in the case of renewals or replacements, at least 15 days before the expiration of the corresponding existing policy).

8.3. Carriers; Policy Provisions. All insurance policies referred to in Section 8.2 that

are carried by Facility Users subject to this UTC shall be maintained with insurance companies of recognized standing and with an A.M. Best rating of A/XII or better. Each insurance policy referred to in Section 8.2 shall also, whether under the express provisions of the policy, by LAWA's own endorsement form or by other endorsement attached to the policy, include LAWA, the Board and all of LAWA's officers, employees, and agents, as additional named insureds for all purposes of the policy. Each insurance policy referred to in Section 8.2 (other than policies for workers' compensation, employers' liability and fire and extended coverages) shall contain (a) a "Severability of Interest (Cross Liability)" clause stating "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 (b) a "Contractual Endorsement" stating "Such insurance as is afforded by this policy shall also apply to liability assumed by the insured under its use of property at Los Angeles International Airport." Each insurance policy referred to in Section 8.2 shall provide that the insurance provided under the policy shall not be subject to cancellation, reduction in coverage, or nonrenewal except after written notice, at least 30 days before the effective date, by certified mail, return receipt requested, to LAWA at its address specified in or under the provisions of Section 17.

## **9. *Damage or Destruction.***

9.1. Facility User to Restore. If any Facility User's Areas are damaged or destroyed by fire or other casualty, then, whether or not (i) the damage or destruction shall have resulted from the fault or neglect of the Facility User or any other Person, or (ii) the insurance proceeds shall be adequate therefor, the Facility User will repair the damage, and restore the Facility User's Areas at the Facility User's expense, promptly and expeditiously and with reasonable continuity, to the same or better condition as existed before the casualty and in such a manner as is otherwise consistent with this UTC and the Facility User's uses of the Facility User's Areas, in each case subject to all then existing Legal Requirements; provided, however, that any such repair and restoration obligation of the Facility User shall be contingent upon LAWA's repair and restoration of the Airport Facility as a whole and all structural components of the Facility User's Areas if necessary. Any repair or restoration by the Facility User of the Facility User's Areas following a casualty shall be considered an Alteration for the purposes of Section 4. If as a result of the repairs or restoration, a new certificate of occupancy shall be necessary for the Facility User's Areas, the Facility User will obtain and deliver to LAWA a temporary or final certificate of occupancy before the damaged portions of the Facility User's Areas shall be used for any purpose.

9.2. Facility User to Give Notice. Facility Users subject to this UTC will give LAWA notice in case of material damage or destruction to the Facility User's Areas promptly after the Facility User becomes aware of the event.

## **10. *Eminent Domain.***

10.1. Total Taking. If there shall occur a whole or partial Taking (other than for temporary use) of any Airport Facility, this UTC shall be either modified or cease to be in effect with respect to the affected Airport Facility at the discretion of the eventual owner.

10.2. Awards. Whether there is a whole or partial Taking, Facility Users subject to this UTC shall not be entitled to receive any portion of LAWA's award in any proceeding relating to any Taking, whether temporary, partial, or whole.

**11. *No Purported Assignment or Subletting***. No Property Rights, No Assignment. Because Facility Users subject to this UTC have no property rights in any property at any Airport Facility subject to this UTC, Facility Users subject to this UTC may not attempt to assign, mortgage, encumber sublet, license, nor sublicense the Airport Facility used pursuant to this UTC or any part thereof. Any such purported assignment, mortgage, encumbrance, license, subletting, or sublicensing is void. Notwithstanding the provisions of this Section 11, and without granting any property right or interest in the Facility User's Areas used pursuant to this UTC, in the event the Facility User purports to license, sublet, or sublicense any portion of its Facility User's Areas, the licensee, sublessee, or sublicensee shall be subject to the same terms and conditions of this UTC as though it were an Facility User itself.

**12. *Pipes, Ducts and Conduits; Access to Airport Facility areas, etc.***

12.1. Pipes, Ducts and Conduits. LAWA may, at its discretion, erect, use and maintain pipes, ducts and conduits in and through the Airport Facility.

12.2. LAWA's Access to Facility User's Areas. Because Facility Users subject to this UTC have no property rights in the Facility User's Areas, LAWA, its officers, employees, agents and contractors may enter the Facility User's Areas at any time, upon reasonable notice, for the purpose of (i) inspecting the Facility User's Areas and making repairs, restorations or alterations, (ii) inspecting the Facility User's Areas or exhibiting them to prospective tenants or other users, or (iii) doing any other act or thing that LAWA may be obligated or have the right to do.

12.3. Emergency Access to Facility User's Areas. If no authorized representative of the Facility User shall be personally present to when LAWA, its officers, employees, agents and contractors, seek to enter the Facility User's Areas and such an entry shall be urgently necessary by reason of fire or other emergency, LAWA may forcibly enter the Facility User's Areas without rendering LAWA liable therefor, if, to the extent possible and during and following the entry, LAWA will accord due care to the Facility User's property under the emergency circumstances. LAWA will notify the Facility User of any emergency entry as soon thereafter as practicable.

12.4. Changes to Airport Facility. LAWA may, at its discretion, change the arrangement, design, number and location of entrances, passageways, doors, doorways, corridors, elevators, stairways, restrooms, roads, sidewalks, landscaping and other parts of the Facility User's Areas and the Airport, although LAWA will attempt to avoid unreasonable interference or impairment of the Facility User's use of the Facility User's Areas, except with reasonable notice to the Facility User of the changes.

**13. *UTC Violations***. If any one or more of the following events shall occur (each being referred to as a "UTC Violation"):

- a. if the Facility User shall fail to pay any installment of Base Charge or any additional charge on the date the same becomes due and payable and the

- failure shall continue for more than three days after payment is due; or
- b. if the Facility User shall fail to perform or comply with the provisions of Section 5, and the failure shall continue for more than the number of days specified for the cure thereof in any notice from LAWA to the Facility User of the failure; or
  - c. if any insurance required to be maintained by the Facility User under the terms of Section 8 shall be cancelled or terminated or shall expire (and if replacement insurance complying with the terms of Section 8 shall not have been effected prior to the cancellation, termination or expiration), or shall be amended or modified, except, in each case, as permitted by the terms of Section 8; or
  - d. if the Facility User shall fail to perform or comply with any term of this UTC (other than those referred to in clauses (a) through (c) of this sentence) and the failure shall continue for more than ten days; or
  - e. if the Facility User shall (i) file, or consent by answer or otherwise to the filing against it of, a petition for relief or reorganization or arrangement or any other petition in bankruptcy, for liquidation or to take advantage of any bankruptcy or insolvency law of any jurisdiction, (ii) make an assignment for the benefit of its creditors, or admits in writing its inability to pay its debts when due, (iii) consent to the appointment of a custodian, receiver, trustee or other officer with similar powers of itself or of any material part of its properties, (iv) be adjudicated insolvent or be liquidated, or (v) take corporate action for the purpose of any of the foregoing; or
  - f. if a court or governmental authority of competent jurisdiction shall enter an order appointing, without consent by the Facility User, a custodian, receiver, trustee or other officer with similar powers with respect to the Facility User or with respect to any material part of its property, or if an order for relief shall be entered in any case or proceeding for liquidation or reorganization or otherwise to take advantage of any bankruptcy or insolvency law of any jurisdiction, or ordering the dissolution, winding-up or liquidation of the Facility User, or if any petition for any such relief shall be filed against the Facility User and the petition shall not be dismissed within 30 days; or
  - g. if the Facility User shall leave the Facility User's Areas without a demonstrable intention to return, whether or not the Facility User continues to pay the Base Charge and additional charges in a timely manner; or
  - h. if the Facility User or any of its Affiliates shall be in material breach of the terms of any other tariff imposed by LAWA or any lease, license, permit or contract to which LAWA shall be a party; or
  - i. if the Facility User shall fail to pay when due any amount due under the Landing Fee; or

- j. if the Facility User shall fail to remit when due to LAWA any Passenger Facility Charges;

the Facility User shall be considered in violation of the UTC and may be removed from any of its Facility User's Areas without further notice, except that LAWA, in its discretion, may permit a good faith effort by the Facility User either to comply immediately with the terms of this UTC or to bring itself into compliance with the terms of this UTC within a reasonable period of time. In the event LAWA does not choose to exercise such discretion to permit the continued use of the Facility User's Areas, the Facility User will pay, as an additional charge under this UTC, all reasonable costs and expenses incurred by or on behalf of LAWA (including, without limitation, reasonable attorneys' fees and expenses) occasioned by any violation by the Facility User of this UTC. If a UTC Violation shall occur, LAWA may immediately apply all amounts held by LAWA under any Performance Guaranty toward amounts then payable by the applicable Facility User to LAWA. In the event of a removal of the Facility User from the Facility User's Areas at the expense of the Facility User, LAWA may store any Facility User's Property so removed from the Facility User's Areas. LAWA shall be under no liability for or by reason of the Facility User's Property's removal.

#### **14. *Performance Guaranty.***

14.1. Initial Performance Guaranty. It shall be a condition to the use of any Airport Facility under this UTC that the Facility User shall have previously delivered a security deposit (the "Performance Guaranty") to LAWA at the following address:

City of Los Angeles  
Department of Airports  
Accounts Receivable  
Attn: FPG Administrator  
P.O Box 92214  
Los Angeles CA 90009-2214

The initial amount of the Performance Guaranty shall be the amount reflected on the Basic Information Schedule as the "Performance Guaranty Amount", which is three times the sum of the amount of the initial estimated monthly installments of Base Charge and any other additional charges. The Performance Guaranty may only be in the form of a cashier's check or in the form of an irrevocable bank letter of credit (and if the Performance Guaranty is for an amount equal to or greater than \$5,000.00, the Performance Guaranty must be in the form of an irrevocable bank letter of credit), in either case issued by a bank satisfactory to LAWA. Any irrevocable bank letter of credit shall be self-renewing annually (but subject to termination as of any renewal date upon not less than 60 days' prior notice to LAWA, in accordance with Section 17) and shall otherwise be in such form as may be approved by the City Attorney. The Performance Guaranty shall not be in lieu of any other guaranty required by LAWA, nor shall any other guaranty in favor of LAWA relating to any obligation of the Facility User, whether in connection with this UTC or otherwise, stand wholly or partly in lieu of the Performance Guaranty.

14.2. Increases to Performance Guaranty. Whenever under the terms of this UTC the monthly amounts payable by the Facility User on account of Base Charge and all other

additional charges increase, such that the amount of the aggregate cumulative increase shall exceed ten percent (10%) of the amount of the existing Performance Guaranty, the Facility User will, within 30 days of the delivery by LAWA of a notice requiring that the Performance Guaranty be increased, deliver a new Performance Guaranty to LAWA at the address specified in Section 14.1 (or such other address as LAWA may from time to time specify for the purpose of this Section 14.2) in the amount of three times the sum of the amount of the then current monthly installments of Base Charge and all other additional charges payable under this UTC. Upon the application by LAWA of any portion of the Performance Guaranty under the terms of Section 13, the Facility User will immediately deliver a new Performance Guaranty to LAWA in the amount of the Performance Guaranty immediately before the application.

14.3. Purpose; Return. The Performance Guaranty shall be held by LAWA as security for the agreement by the Facility User to obey the rules and regulations of this UTC, including the payment of Base Charge and all other additional charges. Upon the permanent vacation of the Facility User's Areas by the Facility User, and provided it has satisfied all of its obligations to LAWA under this UTC, LAWA will return the Performance Guaranty to the Facility User.

14.4 Policy Change. The Board reserves the right, power and duty to revise and readjust the Performance Guaranty policy and amount at any time throughout the Facility User's use of the Facility User's Areas. Upon the adoption of a revised Performance Guaranty policy by the Board, such policy shall be applicable to the Facility User.

## 15. *Space Utilization.*

15.1. Policy. Because the Airport is a public facility essential to regional and national transport and economy, as a matter of public policy LAWA requires that space at the facilities of the Airport be fully utilized.

15.2. Underutilization. If LAWA determines that any portion of the Facility User's Areas are not being utilized, and is not likely to become fully utilized within a reasonable period of time to the extent required by the "Utilization Standards" issued by the Executive Director as may be amended from time to time, LAWA may seek and incorporate other Persons to utilize fully the underutilized Facility User's Areas (the "Underutilized Space"). If within 90 days following the delivery of the notice the Facility User subject to this UTC fails to adequately demonstrate to the satisfaction of LAWA that the Underutilized Space is then being, and reasonably anticipated to continue being, utilized to the extent required by the Utilization Standards, LAWA may deliver to the Facility User a notice that it is in violation of this UTC and may be removed from the underutilized Facility User's Areas on a date specified in the notice and not less than 30 days following the date on which the notice is delivered. If LAWA so elects under this Section 15.2, (i) the Facility User will vacate the Underutilized Space on the date specified in LAWA's notice of election in the condition required by the provisions of this UTC, (ii) the Underutilized Space shall be eliminated from the Facility User's Areas, (iii) the Base Charge shall be recalculated after subtracting the square footage of the Underutilized Space from the square footage of the Facility User's Areas immediately before the recapture, (iv) any other additional charge payable for any period from and after the date of the full utilization shall be appropriately adjusted, and (v) any necessary proration of Base Charge and all other additional charges will be made as if, for the Underutilized Space, the date of the full utilization was the last

day of the month.

15.3. Cancellation upon Cessation of Service.

15.3.1. [Applicable to Airline Facility Users Only] If the Facility User shall for any reason cease regularly scheduled or actual flight services at the Airport, LAWA may immediately remove the Facility User from any Facility User's Areas. In the event of such a cancellation of service, (i) the Facility User will surrender the Facility User's Areas as soon as practicable, in the condition required by the provisions of this UTC, and (ii) the Base Charge and all additional charge will be prorated as of the date of vacancy.

15.3.2. [Applicable to non-Airline Facility Users Only] If the Facility User for any reason does not have a valid agreement or license with LAWA to do business on Airport property, LAWA may immediately remove the Facility User from any Facility User's Areas. In such event, (i) the Facility User will surrender the Facility User's Areas as soon as practicable, in the condition required by the provisions of this UTC, and (ii) the Base Charge and all additional charge will be prorated as of the date of vacancy.

16. **End of Use.** Upon its vacancy of the Facility User's Areas, the Facility User will leave the premises broom clean, in good order and in the condition required by the provisions of this UTC, ordinary wear and tear excepted.

17. **Notices.** Any notice or other communication required or permitted to be given, rendered or made by either party to the other, by any provision of this UTC or by any applicable law or requirement of public authority, shall (unless otherwise expressly set forth herein) be in writing and shall be deemed to have been properly given, rendered or made, if delivered by hand or received by certified mail, postage prepaid, return receipt requested, or delivered by nationally recognized overnight courier service, delivery service prepaid, or delivered by telecopier, in any case addressed as follows:

If to LAWA:

Department of Airports  
1 World Way  
Post Office Box 92216  
Los Angeles, California 90009-2216  
Attention: Executive Director

Telecopier No. (310) 646-0523

with a copy to:

Department of Airports  
1 World Way  
Post Office Box 92216  
Los Angeles, California 90009-2216  
Attention: City Attorney

Telecopier No. (310) 646-9617

If to the Facility User:

to the addresses shown on the Basic Information Schedule under the heading "Facility User Addresses for Notices".

LAWA or the Facility User may from time to time, by notice, designate a different or additional address within the United States or attention designation for communications intended for it. Any notice or other communication given by certified mail shall be deemed given as of the date of delivery as indicated on the return receipt, or when the delivery is first refused. Any notice or other communication delivered by a nationally recognized overnight courier service shall be deemed delivered on the Business Day following the day upon which the notice or other communication was delivered to the courier. Any notice or other communication delivered by telecopier shall be deemed delivered when the transmission is actually received, if received during normal business hours, otherwise the notice or other communication, if received, shall be deemed delivered on the following Business Day. Any notice or other communication may be given on behalf of LAWA or the Facility User by their respective attorneys, provided that the attorneys represent their capacity as such in the notice or other communication.

## **18. Utilities.**

18.1. Facility User Responsible. Facility Users subject to this UTC shall be responsible for the payment of all costs of furnishing utilities to the Facility User's Areas (including all charges for water, gas, heat, light, power, telephone, and other utility service used by the Facility User in connection with its use of the Facility User's Areas), including deposits, connection fees and meter installation and rentals required by the supplier of any utility service, and the costs of all equipment and improvements necessary for connecting the Facility User's Areas to utility service facilities. If LAWA agrees that it is impracticable to separately meter a given utility for the Facility User's Areas, then the Facility User shall pay to LAWA, as an additional charge, on a pro-rata per square foot basis, for all utilities that are supplied by LAWA to the Facility User's Areas, at charges which will reflect fully compensatory, non-discriminatory, standard rates established by LAWA from time to time. The Facility User shall also be responsible for the payment of any and all taxes of whatever character that may be levied or charged upon the Facility User's Areas for furnishing utilities to the Facility User's Areas.

18.2. LAWA Not Liable. LAWA will not be liable to the Facility User for any failure, defect, impairment or deficiency in the supply of any utility service furnished to the Facility User's Areas or in any system supplying the service.

18.3. Interruptions of Service. LAWA has the right to interrupt the services provided by the Airport Facility's heating, ventilation, air conditioning, elevator, plumbing and electrical systems or other Airport Facility systems when necessary by reason of accident or emergency or for repairs, alterations, replacements or improvements.

**19. Rights of Flight.** LAWA has, 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 Facility User's Areas, including the right to cause any noise and vibration inherent in the operation of any aircraft through the airspace or landing at, taking off from, or operating at the Airport. The Facility User will not to make any claim against LAWA under any theory of recovery for any interference with the Facility User's use of the Facility User's Areas that may result from noise or vibration emanating from the operation of aircraft at the Airport.

## **20. *Airport and Terminal Management.***

20.1. Authority of LAWA at Airport. The Airport is a public facility essential to regional and national transport and economy and LAWA is a political subdivision with a public responsibility for the proper functioning of the Airport and the terminals. In order to carry out its responsibilities (including its obligations to comply with the requirements of the Federal Aviation Administration, the U.S. Transportation Security Administration, and other Legal Requirements), LAWA must therefore have broad power to regulate activities in the Airport. Accordingly, LAWA may from time to time adopt rules and regulations, and may make other specific orders, for the conduct of operations at the Airport. Facility Users subject to this UTC shall at all times comply with any rules and regulations from time to time so adopted and any specific orders so made by LAWA (and of which the Facility User shall have received a copy in writing), provided only that the rules and regulations are adopted, and the orders made, by LAWA in the good faith discharge of its public responsibilities and do not unreasonably discriminate against the business operations of the Facility User.

20.2. Major Changes. LAWA may make any change to the Airport that LAWA determines may be necessary or desirable. Facility Users subject to this UTC acknowledge that LAWA may undertake various improvements to the Airport during the Facility User's use of the Facility User's Areas, and that the construction of the improvements may interfere with the Facility User's operations at the Facility User's Areas. LAWA will reasonably attempt to mitigate the effects on the Facility User's operations.

**21. *No Representations.*** By virtue of use under this UTC, the Facility User accepts the Facility User's Areas "as is", in their condition and state of repair existing on the date that the Facility User begins to use the Airport Facility subject to this UTC. LAWA makes no representations, express or implied, as to the current condition of the Airport or the Facility User's Areas, or the equipment and systems serving the Airport Facility, the Airport or the Facility User's Areas.

**22. *Communications Equipment and Antennae.*** Facility Users subject to this UTC have no right to install or use any telecommunications equipment or antennae on the roof or exterior of the Airport Facility, unless (a) the installation and use are directly related to the conduct of the Facility User's business at the Facility User's Areas and are in full compliance with LAWA's permit process and telecommunications policies, as established in the discretion of LAWA, and (b) the installation is effected in compliance with the requirements of Section 4. The Facility User will not purport to license or in any other manner attempt to permit any other Person to use any telecommunications equipment or antennae at the Airport Facility. LAWA maintains the right to install or use telecommunications equipment or antennae on the roof or exterior of the Facility User's Areas and to install and attach cables, wires and conduits on, over or under the

Facility User's Areas in connection with telecommunications equipment or antennae, or to license or otherwise permit others to do so, without compensation or a credit to the Facility User.

**23. *Signs and Advertising Materials.*** Except as set forth in this Section 23, Facility Users subject to this UTC will not place any signs or advertising materials in any location at the Airport Facility without the prior consent of LAWA, which consent may be withheld in the discretion of LAWA. Any request for the approval of identification signs for the Facility User's operations shall be accompanied by illustrative drawings and design dimensions together with information about the type of identification signs proposed by the Facility User and the locations in which the signs are proposed to be installed. The Facility User will comply with any conditions to the installation or use of signs to which LAWA may make its consent subject. LAWA may without notice remove any unauthorized signs or advertising materials, and may store them at the Facility User's expense, and may dispose of them if they are not promptly claimed by the Facility User after notice from LAWA.

**24. *Other Facility User Restrictions.***

24.1. Environmental Matters. The Facility User's activities at or about the Facility User's Areas and the Application of all Hazardous Materials shall comply at all times with all Environmental Requirements. Except for conditions existing before the original occupancy or use of the Facility User's Areas by the Facility User, in the case of any the spill, leak, discharge, or improper storage of any Hazardous Materials on the Facility User's Areas or contamination of the Facility User's Area with Hazardous Materials by any Person (or by the Facility User or its employees, agents, contractors, or subcontractors onto any other property at the Airport), the Facility User will make or cause to be made any necessary repairs or corrective actions as well as to clean up and remove any spill, leakage, discharge or contamination, all in accordance with applicable Environmental Requirements. Prior to vacating the Facility User's Areas the Facility User will remove from the Facility User's Areas all Hazardous Materials applied by the Facility User at the Facility User's Areas. If the Facility User installs or uses above-ground storage tanks, pipelines, or other improvements on the Facility User's Areas for the storage, distribution, use, treatment, or disposal of any Hazardous Materials, the Facility User will, prior to vacating the Facility User's Areas, remove or clean up such improvements, at the election of LAWA, at the sole expense of the Facility User and in compliance with all Environmental Requirements and the reasonable directions of LAWA. The Facility User shall be responsible and liable for the compliance with all of the provisions of this Section 24.1 by the Facility User's officers, employees, contractors, agents and invitees. The Facility User will, at its expense, promptly take all actions required by any governmental agency in connection with the Facility User's Application of Hazardous Materials at or about the Facility User's Areas, including inspection and testing, performing all cleanup, removal and remediation work required for those Hazardous Materials, complying with all closure requirements and post-closure monitoring, and filing all required reports or plans. All of the foregoing work and all Application of Hazardous Materials shall be performed in a good, safe and workmanlike manner by personnel qualified and licensed to undertake the work and in a manner that will not materially interfere with LAWA's use, operation and leasing of the Facility User's Areas or the Airport and other Persons' quiet enjoyment of their premises. The Facility User will deliver to LAWA copies of all permits, manifests, closure or remedial action plans, notices, and all other documents relating to the Facility User's Application of Hazardous Materials at or about the Facility User's Areas, before

delivery to any agency, or promptly after receipt from any agency. The Facility User will keep LAWA fully informed of its Application of Hazardous Materials, and, if the Facility User Applies Hazardous Materials, LAWA may engage one or more consultants to review all permits, manifests, remediation plans and other documents related to the Application of the Hazardous Materials. LAWA's reasonable out-of-pocket costs of engaging the consultants will be paid by the Facility User.

24.2. Security. The Facility User will fully comply with all Legal Requirements relating to airfield and airport security. The Facility User will maintain and keep in good repair that portion of the Airport perimeter fence, including gates and doors, that are in the Facility User's Areas or controlled by the Facility User. The Facility User will comply fully with applicable provisions of the Transportation Security Administration ("TSA") Regulations, 49 CFR, Part 1500 through 1550, as may be amended from time to time, or any successor statute, including the establishment and implementation of procedures acceptable to LAWA to control access from the Facility User's Areas to air operation areas in accordance with the Airport Security Program required by 49 CFR Part 1542, as may be amended from time to time, or any successor statute. The Facility User will exercise exclusive security responsibility for the Facility User's Areas and, if the Facility User is an Airline, will also exercise security responsibility pursuant to Facility User's TSA-approved Aircraft Operator Standard Security Program used in accordance with 49 CFR, Part 1544, as may be amended from time to time, or any successor statute. Without limiting the generality of the foregoing, the Facility User will keep gates and doors in the Facility User's Areas and that permit entry to restricted areas at the Airport locked at all times when not in use or under the Facility User's constant security surveillance. The Facility User will report gate or door malfunctions that permit unauthorized entry into restricted areas to LAWA's operations center without delay, and the Facility User will maintain the affected gate or door under constant security surveillance until repairs are affected by the Facility User or LAWA and the gate or door is properly secured. The Facility User will pay all civil penalties levied by the Federal Aviation Administration for violation of Federal Aviation Regulations pertaining to security gates or doors in the Facility User's Areas or otherwise controlled by the Facility User.

24.3. Business Tax Registration. If it has not already done so, prior to using the Airport Facility, the Facility User will register its business with the office of the City Clerk of the City of Los Angeles and will obtain and presently holds a Business Tax Registration Certificate, or a Business Tax Exemption Number, required by the Business Tax Ordinance (Article I, Chapter 2, Sections 21.00 and following, of the Municipal Code of the City of Los Angeles). The Facility User will maintain, or obtain as necessary, all certificates required of the Facility User under that ordinance, and shall not allow any such certificate to be revoked or suspended while using the Airport Facility.

24.4. Noise Abatement Procedures. The Facility User will comply with the Department's Noise Abatement Rules and Regulations. Under the requirements of the 1993 LAX Noise Variance and in order to limit the use of auxiliary power units, the Facility User will provide a sufficient number of ground power units at each gate and maintenance area used by the Facility User's aircraft at the Airport.

24.5. Nondiscrimination and Equal Employment Practices.

24.5.1. Federal Non-Discrimination Provisions. To the extent required by law, notwithstanding any other provision of this UTC and without implying any property right in the Airport Facility, the Facility User agrees to maintain and operate such facilities and services in compliance with all 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.

24.5.2. City Non-Discrimination Provisions.

a. Non-Discrimination In Use Of Facility User's Areas. 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 transfer, use, occupancy, tenure, or enjoyment of the Facility User's Areas or any operations or activities conducted on the Facility User's Areas. Nor shall the Facility User or any person claiming under or through the Facility User establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of the Facility User or vendees of the Facility User's Areas.

b. Non-Discrimination In Employment. The Facility User obligates itself 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. The Facility User will take affirmative action to insure that applicants for employment are treated without regard to the aforementioned factors and will 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.

c. Equal Employment Practices. If the total payments made to LAWA under this UTC are \$1,000 or more, this provision shall apply. While the Facility User is making payments pursuant to this UTC, the Facility User will comply with Section 10.8.3 of the Los Angeles Administrative Code ("Equal Employment Practices"), a copy of which is attached hereto for convenience as Exhibit A. By way of specification but not limitation, under Sections 10.8.3.E and 10.8.3.F of the Los Angeles Administrative Code, the failure of the Facility User to comply with the Equal Employment Practices provisions of this UTC may be deemed to be a violation of this UTC. 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 Facility User. Upon a finding duly made that the Facility User has failed to comply with the Equal Employment Practices provisions of this UTC, said failure shall be considered a violation of this UTC.

d. Affirmative Action Program. If the total payments to LAWA under this UTC are \$100,000 or more, this provision shall apply. During the performance of this UTC, the Facility User will comply with Section 10.8.4 of the Los Angeles Administrative Code ("Affirmative Action Program"), a copy of which is attached hereto for convenience as Exhibit B. By way of specification but not limitation, under Sections 10.8.4.E and 10.8.4.F of the Los Angeles Administrative Code, the failure of the Facility User to comply with the Affirmative

Action Program provisions of this UTC constitutes a violation of this UTC. 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 Facility User. Upon a finding duly made that the Facility User has failed to comply with the Affirmative Action Program provisions of this UTC, said failure shall be considered a violation of this UTC.

24.6. Taxes, Permits and Licenses. The Facility User will pay any and all taxes of whatever character that may be levied or charged upon the Facility User's Areas, or upon the Facility User's improvements, fixtures, equipment, or other property thereon or upon the Facility User's use thereof. The Facility User will also pay all license or permit fees necessary or required by law or regulation for the conduct of the Facility User's business or use of the Facility User's Areas.

24.7. Living Wage Ordinance

24.7.1. General Provisions; Living Wage Policy. This UTC is subject to the Living Wage Ordinance ("LWO"), Section 10.37, *et seq.*, of the Los Angeles Administrative Code, a copy of which is attached hereto for convenience as Exhibit C. The LWO requires that, unless specific exemptions apply, any employees of the Facility User or licensees of property of the City of Los Angeles who render services on the Facility User's Areas are covered by the LWO if any of the following applies: (1) the services are rendered on the Facility User's Areas at least a portion 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 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 under Section 10.37.2(b). The LWO requires employers to inform employees making less than twelve dollars per hour of their possible right to the federal Earned Income Tax Credit and to make available the forms required to secure advance Earned Income Tax Credit payments from the employer under Section 10.37.4. The Facility User will permit access to work sites for authorized representatives of the City of Los Angeles to review the operation, payroll, and related documents, and to provide certified copies of the relevant records upon request by the City of Los Angeles. Whether or not subject to the LWO, the Facility User will not retaliate against any employee claiming non-compliance with the provisions of the LWO, and, in addition, under Section 10.37.6(c), the Facility User will comply with federal law prohibiting retaliation for union organizing.

24.7.2. Living Wage Coverage Determination. An initial determination has been made that this UTC is not exempt from coverage by the LWO. The Living Wage Coverage Determination Form reflecting that initial determination is attached to this UTC as Exhibit D. Determinations as to whether this UTC is 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 other interpretations of the law are considered. In some circumstances, applications for exemption must be reviewed periodically. The City of Los

Angeles will notify the Facility User in writing about any redetermination by the City of Los Angeles of coverage or exemption status. To the extent the Facility User claims non-coverage or exemption from the provisions of the LWO, the burden shall be on the Facility User to prove the non-coverage or exemption.

24.7.3. Compliance. If the Facility User is not initially exempt from the LWO, the Facility User will comply with all of the provisions of the LWO, including payment to employees at the minimum wage rates, effective on the Commencement Date, and will execute the Declaration of Compliance Form attached to this UTC as Exhibit E, contemporaneously with the execution of this UTC. If the Facility User is initially exempt from the LWO, but later no longer qualifies for any exemption, the Facility User will, at such time as the Facility User is no longer exempt, comply with the provisions of the LWO and execute the then currently used Declaration of Compliance Form, or such form as the LWO requires. 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 UTC and LAWA shall be entitled to terminate airline use of space in any Airport Facility and otherwise pursue legal remedies that may be available, including those set forth in the LWO, if the City of Los Angeles determines that the Facility User 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 UTC. Nothing in this UTC shall be construed to extend the time periods or limit the remedies provided in the LWO.

24.8. Service Contractor Workers Retention Ordinance. This UTC may be subject to the Service Contractor Worker Retention Ordinance (“SCWRO”), Section 10.36, *et seq.*, of the Los Angeles Administrative Code, a copy of which is attached for convenience as Exhibit F. If applicable, the Facility User 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 months shall provide retention by a successor contractor for a 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, the City of Los Angeles has the authority, under appropriate circumstances, to terminate the Facility User’s use of space in any Airport Facility at the Airport and otherwise pursue legal remedies that may be available if the City of Los Angeles determines that the Facility User violated the provisions of the SCWRO.

24.9. Child Support Orders. This UTC is subject to Section 10.10, Article I, Chapter 1, Division 10 of the Los Angeles Administrative Code related to Child Support Assignment Orders, a copy of which is attached for convenience as Exhibit G. Under this Section, the Facility User (and any subcontractor of the Facility User providing services to LAWA under this UTC) will (1) fully comply with all State and Federal employment reporting requirements for the Facility User or the Facility User’s subcontractor’s employees applicable to Child Support Assignments Orders; (2) certify that the principal owners of the Facility User and applicable subcontractors are in compliance with any Wage and Earnings Assignment Orders and Notices of Assignment applicable to them personally; (3) 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 (4) maintain compliance throughout the Facility User’s use of

the Facility User's Areas. Under Section 10.10(b) of the Los Angeles Administrative Code, failure of the Facility User 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 owners of the Facility User or applicable subcontractors to comply with any Wage and Earnings Assignment Orders and Notices of Assignment applicable to them personally shall constitute a violation of this UTC permitting LAWA to terminate Facility User's use of space in any Airport Facility where the failure shall continue for more than 90 days after notice of the failure to the Facility User by LAWA (in lieu of any time for cure provided elsewhere in this UTC).

24.10. Visual Artists' Rights Act. The Facility User will 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.*, (collectively, "VARA") on or about the Facility User's Areas without first obtaining a written waiver from the artist of all rights under VARA, satisfactory to LAWA and approved as to form and legality by the City Attorney. The waiver shall be in full compliance with VARA and shall name LAWA as a party for which the waiver applies. The Facility User will not install, or causing to be installed, any piece of artwork covered under VARA at the Facility User's Areas without the prior approval and waiver of LAWA. Any work of art installed at the Facility User's Areas without such prior approval and waiver shall be deemed a trespass, removable by LAWA, upon three days' written notice, with all costs, expenses, and liability therefor to be borne exclusively by the Facility User.

24.11. Contractor Responsibility Program. The Facility User will comply with the provisions of the Contractor Responsibility Program adopted by the Board. The rules, regulations, requirements and penalties of the Contractor Responsibility Program and the Pledge of Compliance Form are attached to this UTC as Exhibit H.

24.12. First Source Hiring Program. The Facility User will 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 to this UTC as Exhibit I.

**25. Definitions.** The terms defined in this Section 25 shall have, for all purposes of this UTC, the meanings herein specified unless unambiguously required to the contrary by their context.

"Affiliate" means, as to any Person, any Person or group of Persons acting in concert in respect of the Person in question that, directly or indirectly, controls or is controlled by or is under common control with the Person in question. For the purposes of this definition, "control" (including, with correlative meanings, the terms "controlled by" and "under common control with"), as used referring to any Person or group of Persons shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of the Person or group, whether through the ownership of voting securities or by contract or otherwise.

"Aircraft Paving Area" means the Airport Facility land used substantially exclusively by a Facility User pursuant to this UTC, consisting of approximately the number of square feet of aircraft paving reflected on the Basic Information Schedule under the heading "Aircraft Paving Area".

“Airline” means an Air Carrier or Foreign Air Carrier as defined in 49 U.S.C. § 40102(a)(2) & (a)(21), respectively.

“Airport” means Los Angeles International Airport in Los Angeles, California.

“Airport Engineer” means the Chief Airports Engineer of the Airport from time to time, as successors to that position may be designated (by whatever title).

“Airport Facility” means any (i) building and associated land and (ii) land identified in Schedule 2 attached hereto. When the context requires, use of the term “Airport Facility” may mean any building and/or land identified in Schedule 2.

“Apply,” “Applied,” or “Application” mean any installation, handling, generation, storing, treatment, application, use, disposal, discharge, manufacture, refinement, presence, migration, emission, abatement, removal, transportation, or any other activity of any type in connection with or involving Hazardous Materials by the Facility User or its officers, employees, contractors, assignees, agents or invitees.

“Automobile Paving Area” means the Airport Facility land used substantially exclusively by a Facility User pursuant to this UTC, consisting of approximately the number of square feet of automobile paving reflected on the Basic Information Schedule under the heading “Automobile Paving Area”.

“Base Charge” means the rental payable by the Facility User for the use of the Airport Facility in monthly installments as provided for in Section 2.1 and 2.2.

“Basic Information Schedule” means the schedule containing certain basic information relating to this UTC.

“Basic Rates” means the monthly amount, expressed in U.S. dollars per square foot of (i) Building Area; (ii) Land Area; (iii) Aircraft Paving Area; and (iv) Automobile Paving Area, by which the Base Charge is computed under the terms of Section 2.

“Board” means the Board of Airport Commissioners of the Department of Airports of the City of Los Angeles, California.

“Building Area” means the Airport Facility building used substantially exclusively by a Facility User pursuant to this UTC, consisting of approximately the number of square feet of building space reflected on the Basic Information Schedule under the heading “Building Area”.

“Business Day” means any day excluding Saturdays, Sundays, and any other day designated as a holiday under the federal laws of the United States or under the laws of the State of California or the City of Los Angeles.

“City Attorney” means the Office of the City Attorney of the City of Los Angeles.

“Commencement Date” means the first date on which a Facility User uses an Airport Facility pursuant to this UTC.



“CPI” means the Consumer Price Index for All Urban Consumers (CPI-U), as published from time to time by the U.S. Department of Labor, Bureau of Labor Statistics, for the Los Angeles-Riverside Orange County area, All Items (1982-84 = 100), or, if that index shall cease to be regularly published, such replacement index (adjusted for any difference in base year and absolute amount) as shall from time to time be published by the Bureau. If the U.S. Department of Labor ceases to publish such an index, LAWA will adopt in its place a comparable index published at the time of the cessation by a responsible financial periodical, if any. If there is no comparable index published by a responsible financial periodical, LAWA will adopt any other comparable index available, and make any adjustments required thereto to reflect the 1982-84 = 100 base year. In addition, if the method of calculating the consumer price index changes in any way, for the purposes of this UTC, the CPI shall be determined without giving effect to the new methods, and the CPI shall continue to be calculated in the manner as of the Commencement Date. Any adjustments to the CPI (if it is calculated differently) shall be made by LAWA, subject to the Facility User’s right to reasonably approve the adjustments.

“CPI Change” means the percentage change in the CPI when comparing (a) the CPI in effect for the month of March immediately preceding the first day of the Valuation Year to (b) the CPI in effect for the month of March for the prior year.

“discretion” means sole and absolute discretion; any provision of this UTC referring to the exercise by LAWA or the Facility User of its discretion, whether in those words or words of similar import, shall (unless expressly subject to a different standard) permit the party exercising its discretion to do so in any manner and for any reasons it chooses, and, to the maximum extent permitted by law, the exercise of that discretion is not intended to be reviewable by any judicial or regulatory authority.

“Environmental Losses” means all costs and expenses of any kind (including remediation expenses), damages, fines and penalties incurred in connection with any violation of and compliance with Environmental Requirements and all losses of any kind attributable to the diminution of value, loss of use or adverse effects on marketability or use of any portion of the Facility User’s Areas or the Airport.

“Environmental Requirements” means all present and future governmental statutes, codes, ordinances, regulations, rules, orders, permits, licenses, approvals, authorizations and other requirements of any kind applicable to Hazardous Materials.

“Executive Director” means the Executive Director of the Department of Airports of the City of Los Angeles, California, or his or her designee.

“Facility User” means a Person other than a government or political subdivision thereof or a governmental agency.

“Facility User’s Areas” means the Airport Facility used substantially exclusively by an Facility User pursuant to this UTC, consisting of approximately the number of square feet of Land Area, Building Area, Aircraft Paving Area and Automobile Paving Area, reflected on the Basic Information Schedule under the heading “Facility User’s Areas”.

“Facility User’s Property” means all furniture, furnishings, office equipment, books, records, office supplies, computers and related equipment, audio-visual equipment, telephone systems and equipment, art work and rugs installed at or located in the Facility User’s Areas at the expense of the Facility User and removable without damage to the Facility User’s Areas that cannot be readily repaired.

“Guarantor” means, if the Facility User’s obligations under this UTC have been guaranteed by any Person, the guarantor under the Guaranty.

“Guaranty” means the guaranty to and in favor of LAWA of the Facility User’s obligations under this UTC, if the Facility User’s obligations under this UTC have been guaranteed by any Person.

“Hazardous Materials” means any substance (i) that now or in the future is regulated or governed by, requires investigation or remediation under, or is defined as a hazardous waste, hazardous substance, extremely hazardous waste, hazardous material, hazardous chemical, toxic chemical, toxic substance, cancer causing substance, substance that causes reproductive harm, pollutant or contaminant under any governmental statute, code, ordinance, regulation, action, case law, rule or order, and any amendment thereto, including the Comprehensive Environmental Response Compensation and Liability Act, 42 U.S.C. §9601 *et seq.*, and the Resource Conservation and Recovery Act, 42 U.S.C. §6901 *et seq.*, (ii) that is toxic, explosive, corrosive, flammable, radioactive, carcinogenic, mutagenic, or otherwise hazardous, including aviation fuel, jet fuel, gasoline, diesel, petroleum hydrocarbons, polychlorinated biphenyls (PCBs), asbestos, radon and urea formaldehyde, (iii) the presence of which at the Facility User’s Area causes or threatens to cause a nuisance at the Facility User’s Area or adjacent property, or poses or threatens to pose a hazard to the health or safety of persons on or about the Facility User’s Area or adjacent property, or (iv) the presence of which on adjacent property could constitute a trespass by the Facility User.

“herein”, “hereof”, “hereto”, “hereunder” and similar terms contained in this UTC refer to this UTC as a whole and not to any particular Section, paragraph or provision of this UTC.

“including” and “include” mean including or include without limiting the generality of any description preceding that term; for the purposes of this UTC the rule of eiusdem generis shall not be applicable to limit a general statement, followed by or referable to an enumeration of specific matters, to matters similar to the matters specifically mentioned.

“Initial Valuation Date” means the date reflected on the Basic Information Schedule as the “Initial Valuation Date”, the date preceding the date of this UTC as of which the valuation of the Airport Facility was last established.

“Insurance Requirements” means all terms of any insurance policy covering the Facility User or covering or applicable to the Facility User’s Areas or any part thereof, all requirements of the issuer of the policy, and all orders, rules, regulations and other requirements of the National Board of Fire Underwriters (or any other body exercising similar functions) applicable to or affecting the Facility User’s Areas or any part thereof or any use or condition of the Facility User’s Areas or any part thereof.

“Land Area” means the Airport Facility land used substantially exclusively by a Facility User pursuant to this UTC, consisting of approximately the number of square feet of land reflected on the Basic Information Schedule under the heading “Land Area”.

“Landing Fee” means the landing fees and charges payable by the Facility User under the terms of any operating permit issued by LAWA and held by the Facility User as an Airline or as established by any resolution of the Board.

“LAWA” means the City of Los Angeles, acting by and through the Board of Airport Commissioners of its Department of Airports.

“Lease” means a written instrument under which a Facility User is entitled to exclusive possession of a portion of an Airport Facility, or a license to use in common with other Facility Users portions of an Airport Facility, or both, but does not include the possession, occupancy, or use of space in any Airport Facility by reason of holding over (without the express written consent of LAWA, explicitly as to duration) after the expiration of the term specified in any instrument that would otherwise be a “Lease” for the purposes of this definition.

“Legal Requirements” means all laws, statutes, codes, acts, ordinances, charters, orders, judgments, decrees, injunctions, rules, regulations, permits, licenses, authorizations, directions and requirements of all governments, departments, commissions, boards, courts, authorities, agencies, officials and officers, foreseen or unforeseen, ordinary or extraordinary, that now or at any time hereafter may be applicable to the Facility User or to any Airport Facility, or to the Airport or any part thereof.

“Passenger Facility Charges” means passenger facility charges required to be collected by the Facility User and remitted to LAWA under 14 C.F.R. Part 158 or any similar or successor Legal Requirement.

“Person” means a corporation, an association, a partnership, a limited liability company, an organization, a trust, a natural person, a government or political subdivision thereof or a governmental agency.

“Reimbursement Rate” means, as of any date of determination, the annual rate of interest equal to two per cent per annum in excess of the fixed rate of interest quoted in The Bond Buyer 25 Revenue Bond Index (or, if that index is no longer published, such successor or replacement index or similar index selected by LAWA) for fixed rate bonds having a term remaining to maturity of one year (with no credit enhancement) and bearing interest that is not excluded from gross income for federal income tax purposes.

“Stipulated Rate” means the rate of interest per annum equal to the lesser of (a) 20% and (b) the maximum rate permitted by applicable law.

“Taking” means a temporary or permanent taking by a government or political subdivision thereof or by a governmental agency (or by any other Person exercising the power of condemnation or eminent domain) for public or quasi-public use of all or any part of any Terminal, or any interest therein or right accruing thereto, including, without limitation, any right of access thereto existing on the date hereof, as the result of or in lieu of or in anticipation of the

exercise of the right of condemnation or eminent domain. No recapture by LAWA of any portion of the Facility User's Areas, or exercise by LAWA of any similar right under the terms of this UTC, shall constitute a Taking.

"Taking Date" means, in connection with a Taking, the earlier of the date on which title vests due to the Taking and the date on which possession of the property affected by the Taking is required to be, or is, delivered to or at the direction of the condemning authority.

"UTC" means this UTC and the Schedules and Exhibits hereto, together with the Basic Information Schedule, as amended from time to time.

"UTC Year" means the fiscal year of LAWA, which is currently the year beginning on July 1 and ending on the following June 30, or any other fiscal year as may from time to time be adopted by LAWA.

"Unavoidable Delays" means delays due to strikes, acts of God, interruption of services, enemy action, terrorist acts, civil commotion, shortages of labor or supply or other similar causes beyond the reasonable control of the party whose action is required; but lack of funds shall not be deemed a cause beyond the control of the Facility User.

"Valuation Cycle" means each of the successive five-year periods beginning with the Initial Valuation Date and ending on the day preceding each fifth successive anniversary of the Initial Valuation Date.

"Valuation Year" means each of the five successive one-year periods beginning with the Initial Valuation Date and ending on the day preceding each of the five successive anniversaries of the Initial Valuation Date.

## **26. *Miscellaneous.***

26.1. Entire UTC. This UTC governs the Facility User's use of any Airport Facility except pursuant to a Lease.

26.2. Rights Limited by Law. All rights, powers and remedies provided herein may be exercised only to the extent that the exercise thereof does not violate any applicable provision of law, and are intended to be limited to the extent necessary so that they will not render this UTC invalid, illegal, unenforceable or not entitled to be recorded, registered or filed under the provisions of any applicable law. If any term of this UTC or any application thereof shall be invalid or unenforceable, the remainder of this UTC and any other application of the term shall not be affected.

26.3. Certain Statutes. No provision of this UTC 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 40107(a)(4) (Public Law 103-272). The Facility User waives any right or benefit in any way related to the Airport or its operations to which the Facility User would otherwise be entitled as a result of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 49 U.S.C. 4601, *et seq.* (Public Law 91-646),

Title 1, Division 7, Chapter 16 of the California Government Code (Sections 7260, *et seq.*), or any other Legal Requirement conferring similar rights and benefits.

26.4. Approvals. Any approvals or consents required from or given by LAWA under this UTC shall be approvals of the Department acting as LAWA, and shall not relate to, constitute a waiver of, supersede or otherwise limit or affect the rights or prerogatives of the City of Los Angeles as a government, including the right to grant or deny any permits required for construction in the Facility User's Areas or maintenance of the Facility User's Area and the right to enact, amend or repeal Legal Requirements, including those relating to zoning, land use, and building and safety. Any requirement in this UTC that an approval or consent be not unreasonably withheld shall also be deemed to require that the approval or consent be not unreasonably delayed. Any other requirement in this UTC that an approval or consent be obtained shall entitle the party whose approval or consent is required to withhold the approval or consent in its discretion. No approval or consent on behalf of LAWA will be deemed binding upon LAWA unless approved in writing as to form by the City Attorney.

26.5. Time Periods. Unless otherwise specified, any reference to "days" in this UTC shall mean calendar days. Time of performance shall be of the essence of this UTC, provided that whenever a day is established in this UTC on or by which either LAWA or the Facility User is required to perform any action (other than the Facility User's obligation to make any payment of money required by this UTC), the time for performance shall be extended by the number of days (if any) during which the party whose performance is required is prevented from performing due to Unavoidable Delays.

26.6. Measurements. All measurements of the Facility User's Building Area shall be made (except as required to the contrary by the express terms of this UTC) under ANSI/BOMA Z65.1-1996 ("Standard for Measuring Floor Area in Office Buildings") or any other consistent methods from time to time adopted by the Airport Engineer. All measurements of land shall be made to City standards or any other consistent methods from time to time adopted by the Airport Engineer. If at any time the Airport Engineer concludes that any measurement proves to have been incorrect, LAWA will promptly disclose the inaccuracy to the affected Facility User, and LAWA and the affected Facility User will promptly make such payments to the other as may be necessary to correct retroactively for the economic effect of the error.

26.7. Certain Exhibits and Deliveries. Exhibits to this UTC consisting of provisions of ordinances and the Administrative Code of the City of Los Angeles are attached to this UTC only as a matter of convenience. In the event of a conflict between the Exhibits to this UTC and the official text of the ordinance or Administrative Code provision, the official text shall govern. In order to illustrate the computation of the Base Charge and other financial matters relevant to this UTC, LAWA has delivered or may deliver to the Facility User sample calculations in written or electronic form. In the event of a conflict between the sample calculations and the terms of this UTC, the terms of this UTC shall govern.

26.8. Other Agreements not Affected. The provisions of this UTC shall apply only to the Facility User's Area and shall not modify in any respect any of the rights or obligations of LAWA or the Facility User under any other UTC or other agreement between them. Except as expressly provided in this UTC, no third-party is intended to be a beneficiary of the provisions of

this UTC.

26.9. Subordination to Government Agreements. The Facility User's rights under this UTC shall be subordinate to the provisions of any existing or future agreement between LAWA and the United States relating to the development, operation, or maintenance of the Airport.

26.10. Captions, etc. The captions, table of contents and cover page of this UTC are for convenience of reference only and shall not limit or otherwise affect the meaning hereof.

26.11. Waiver of Trial by Jury. Facility Users subject to this UTC do hereby waive trial by jury in any action, proceeding or counterclaim brought by either of them against the other relating to any matters arising out of or in any way connected with this UTC, the relationship of LAWA and the Facility User, the Facility User's use of the Facility User's Areas, or any other claims (except claims for personal injury or property damage) or any other statutory remedy.

26.12. Survival of Obligations. Unless expressly provided to the contrary, the obligations of a Facility User hereunder shall survive, to the extent previously accrued, the vacation of Facility User's Areas by any Facility User subject to this UTC.

26.13. Governing Law. Irrespective of the place of execution or performance, this UTC shall be governed by and construed and enforced in accordance with the laws of the State of California.

26.14. Interpretation. Any references in this UTC to a specific Legal Requirement shall be deemed to include a reference to any similar or successor provision.

26.15. Attorneys' Fees. In any action brought by LAWA to enforce the terms of this UTC, if LAWA substantially prevails in the action, LAWA shall be entitled to recover from the Facility User LAWA's reasonable expenses of the action (including reasonable attorneys' fees).

26.16. Authority. The powers of LAWA under this UTC, including the power to interpret and implement the provisions of this UTC, have been delegated to and may be exercised by the Executive Director, and any notice, election, approval or consent that this UTC by its terms requires or permits LAWA to give may be given by the Executive Director, in each case as if exercised or given by resolution or order of the Board. Without limitation of the authority of the Executive Director under any specific provision of this UTC (after giving effect to the foregoing provisions of this Section 26.16), the Executive Director shall have the authority to both:

- (A) bind LAWA to any amendment of this UTC having the effect of increasing or decreasing by not more than \$150,000 in any UTC Year the amounts payable by the Facility User to LAWA under this UTC, provided however, that such authority shall not (without the prior approval or later ratification of the Board) extend to any amendment of the terms of this UTC if the specific text of this UTC has been presented to and approved by the City Council of the City of Los Angeles; and
- (B) in accordance with Charter Section 633, designate and assign space under this UTC to any Facility User and any schedule(s) to this UTC for the applicable

Facility User (whether or not previously approved by the Board) shall be adjusted to reflect any change in the space so assigned or designated by the Executive Director for such Facility User.

In taking any action under this UTC, the Facility User shall be entitled to rely on the authority of the Executive Director as specified in this Section 26.16.

## SCHEDULE 1



**INSURANCE REQUIREMENTS FOR LOS ANGELES WORLD AIRPORTS**

**NAME: Los Angeles World Airports and**

**AGREEMENT / ACTIVITY: For occupancy of non-terminal areas with airfield access**

**LAWA DIVISION: Commercial Development Group**

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
  - (\*) Longshoremen's and Harbor Workers' Compensation Act Endorsement
  - (X) Waiver of Subrogation, specifically naming LAWA.  
Blanket Endorsements are not acceptable.
  
- (X) Automobile Liability - covering owned, non-owned & hired auto** **\$ 10,000,000 CSL**
  
- (X) Aviation/Airport Liability, including the following coverage:** **\$ 10,000,000 CSL**

**OR**

- (X) Commercial General Liability/Airport Liability** **\$10,000,000CSL**
  - (X) Premises and Operations
  - (X) Contractual (Blanket/Schedule)
  - (X) Independent Contractors
  - (X) Products /Completed Operations
  - (\*) Hangarkeepers Legal Liab. (Required when aircraft ground handling services provided)
  - (X) Personal Injury
  - (X) Additional Insured Endorsement, specifically naming LAWA.  
Blanket Endorsements are not acceptable.

- (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

<b>*** Coverage for Hazardous Substances</b>	Sudden Occurrence	<b><u>\$ ***</u></b>
	Non-sudden Occurrence	<b><u>\$ ***</u></b>

**\*\* 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.

**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 EXECUTIVE DIRECTOR.**

## INSURANCE REQUIREMENTS FOR LOS ANGELES WORLD AIRPORTS

**NAME:** City of Los Angeles Department of Airports and  
**AGREEMENT/ACTIVITY:** Occupancy of non-terminal areas, with no airfield access  
**LAWA DIVISION:** Commercial Development Group

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.

	<u>LIMITS</u>
<input checked="" type="checkbox"/> Workers' Compensation (Statutory)/Employer's Liability <input checked="" type="checkbox"/> Broad Form All States Endorsement <input checked="" type="checkbox"/> Voluntary Compensation Endorsement <input type="checkbox"/> Longshoremen's and Harbor Workers' Compensation Act Endorsement <input checked="" type="checkbox"/> Waiver of Subrogation, specifically naming LAWA. Blanket Endorsements are not acceptable.	<u>Statutory</u>
<input checked="" type="checkbox"/> Automobile Liability - covering owned, non-owned & hired auto	<u>\$1,000,000 CSL</u>
<input checked="" type="checkbox"/> Aviation/Airport Liability	<u>\$1,000,000 CSL</u>

OR

<input checked="" type="checkbox"/> General Liability Comprehensive Form, including the following coverages: <input checked="" type="checkbox"/> Premises and Operations <input checked="" type="checkbox"/> Contractual (Blanket/Schedule) <input checked="" type="checkbox"/> Independent Contractors <input checked="" type="checkbox"/> Personal Injury <input checked="" type="checkbox"/> Additional Insured Endorsement specifically naming LAWA. Blanket Endorsements are not acceptable. <input type="checkbox"/> Hangarkeepers Legal Liab. (required when aircraft ground handling services are provided) <input checked="" type="checkbox"/> Products/Completed Operations	<u>\$1,000,000 CSL</u>
---	------------------------

<input checked="" type="checkbox"/> Property Insurance 90% Co-Ins. ( ) Actual Cash Value (X) Replacement Value ( ) Agreed Amt. <input checked="" type="checkbox"/> Covering tenant improvements, w/waiver of subrogation (Department does not insure tenant improvements) <input type="checkbox"/> Covering building structure <input checked="" type="checkbox"/> All Risk Coverages <input checked="" type="checkbox"/> Fire & Extended Coverage, including sprinkler leakage <input checked="" type="checkbox"/> Vandalism and Malicious Mischief <input checked="" type="checkbox"/> Debris Removal	<u>Value of Improvements</u>
---	------------------------------

<input type="checkbox"/> Builder's Risk Insurance - (All Risk Coverage)	<u>Value of Improvements</u>
<input type="checkbox"/> Coverage for Hazardous Substances	Sudden Occurrence      \$ *** Non-sudden Occurrence      \$ ***

Comments:                      \* If exposure exists, coverage is required.  
    \*\* Required if property or building ultimately revert to City.  
    \*\*\* Must meet Federal and/or State requirements.

**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 THE EXECUTIVE DIRECTOR.**

**PLEASE RETURN THIS FORM WITH EVIDENCE OF INSURANCE**

**SCHEDULE 2**

**AIRPORT FACILITIES**

IDENTIFIED IN  
AIRPORT LAYOUT PLAN  
Drawing 20090002-200A  
Effective 12/07/2009

<b>NO.</b>	<b>FACILITY NAME (1)</b>
101	Swissport Cargo Services
102	Delta Airlines Cargo Building
103	China Airlines Cargo Building
104	Air France Cargo Building
105	Air New Zealand/Air China Cargo Building (Delta)
106	Lufthansa Cargo Building
107	Air Canada Cargo Building
108	Swissport Cargo Services
109	DHL Cargo
110	DHL
111	AMB LAX Cargo Center
112	FedEx Building
114	Korean Air Cargo Building
115	Singapore Airlines Cargo Building
116	Landmark Aviation (FBO)
117	Atlantic Aviation (FBO)
118	Nippon Cargo Airways Building
119	Qantas Freight
122	Gate Gourmet
123	Flying Food Group
124	Mercury Air Cargo Services/Eva Air Cargo
125	Clark McCarthy
126	Gate Gourmet
128	Swissport
129	Penauille Servisair
202	Continental Airlines Maintenance Hangar
203	Chelsea Catering
204	Former Continental Airlines Training
205	American Airlines Maintenance Hangar
206	American Airlines Maintenance Hangar
207	American Eagle Commuter Terminal
208	American Airlines Maintenance Hangar
209	LSG Sky Chefs Flight Kitchen
211	American Airlines Maintenance Hangar
213	Menzies
215	U.S. Coast Guard Building
217	Southwest Airlines Flight Kitchen Storage
219	U.S. Airways Maintenance Building
224	FedEx Aircraft Maintenance Facility
317	Centinela Medical Facility
401	Delta Airlines GSE Building
402	American Airlines Commuter
403	LAWA/Delta Airlines
404	Mercury Air Group Cargo
405	United Airlines Maintenance Hangars
407	Air Freight Building #11/American Airlines
408	Air Freight Building #10/American Airlines
409	United States Postal Service (USPS)

**SCHEDULE 2**

**AIRPORT FACILITIES**

IDENTIFIED IN  
AIRPORT LAYOUT PLAN  
Drawing 20090002-200A  
Effective 12/07/2009

<b>NO.</b>	<b>FACILITY NAME (1)</b>
413	US Airways Cargo Building
417	United Cargo Building
419	Proud Bird Restaurant
420	U.S. Customs & Border Patrol/AMB
421	Isaac Holdings
422	Travelodge Hotel/Denny's Restaurant
423	Greene's Ready Mix (Cal Portland)
502	United States Postal Service
503	Avis Car Rental Facility
504	National Car Rental Facility
601	Jet Pets
XXX	10200 Aviation Boulevard (PSG)
XXX	5520 Arbor Vitae (TSA Jobs Ctr)
XXX	10326 Aviation Boulevard (Centra Freight)

- (1) Facility Name' denotes common name only, not current tenancy.
- (2) Facilities may include associated land areas for automobile parking & aircraft parking.
- (3) 'XXX' denotes Airport Facilities that do not have an assigned number on the ALP.

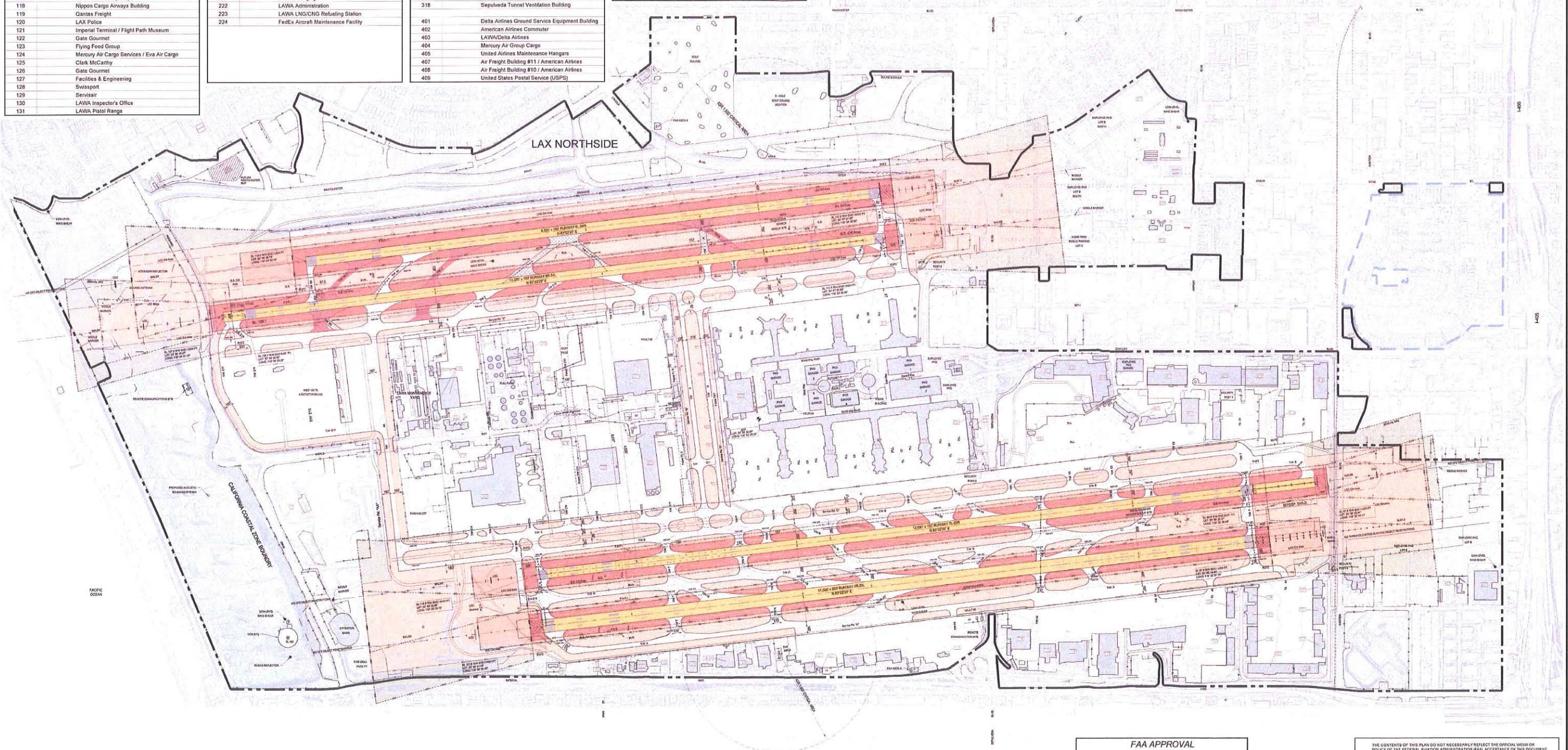
No.	FACILITY
101	Swissport Cargo Services
102	Delta Airlines Cargo Building
103	China Airlines Cargo Building
104	Air France Cargo Building
105	Air New Zealand / Air China Cargo Building
106	Lufthansa Cargo Building
107	Air Canada Cargo Building
108	Swissport Cargo Services
109	DHL Cargo
110	DHL Cargo
111	AMB LAX Cargo Center
112	FedEx Building
113	Japan Air Lines / Continental / Polar Cargo
114	Korean Air Cargo Building
115	Singapore Airlines Cargo Building
116	Landmark Aviation (FBO)
117	Atlantic Aviation (FBO)
118	Nippon Cargo Airways Building
119	Qantas Freight
120	LAX Police
121	Imperial Terminal / Flight Path Museum
122	Gate Gourmet
123	Flying Food Group
124	Mercury Air Cargo Services / Eva Air Cargo
125	Clark McCarthy
126	Gate Gourmet
127	Facilities & Engineering
128	Swissport
129	Swissport
130	LAWA Inspector's Office
131	LAWA Pistol Range

No.	FACILITY
202	Continental Airlines Maintenance Hangar
203	Chelsea Catering
204	Former Continental Airlines Training Cntr. (Vacant)
205	American Airlines Maintenance Hangar
206	American Airlines Maintenance Hangar
207	American Eagle Commuter Terminal
208	American Airlines Maintenance Building
209	LSC Sky Chefs Flight Kitchen
210	AIRFT Station 85
211	American Airlines Maintenance Hangar
213	Menzies
215	U.S. Coast Guard Building
216	Electrical Vault #2
217	Southwest Airlines Flight Kitchen Storage
218	LAWA
219	U.S. Airways Maintenance Building
221	Airfield Badging
222	LAWA Administration
223	LAWA LINCMS Refueling Station
224	FedEx Aircraft Maintenance Facility

No.	FACILITY
301	Passenger Terminal 1
302	Passenger Terminal 2
303	Passenger Terminal 3
304	Tom Bradley International Terminal (TBIT)
305	Passenger Terminal 4
306	Passenger Terminal 5
307	Passenger Terminal 6
308	Passenger Terminal 7
309	Passenger Terminal 8
310	FAA Air Traffic Control Tower (ATCT)
311	Central Utility Plant
312	LAWA Administration Building
313	Fire Station 51
314	Pacific Telephone
315	Communication Center
316	LAX Police Headquarters
317	Centinea Medical Facility
318	Sepulveda Tunnel Ventilation Building
401	Delta Airlines Ground Service Equipment Building
402	American Airlines Commuter
403	LAWA/Delta Airlines
404	Mercury Air Group Cargo
405	United Airlines Maintenance Hangars
407	Air Freight Building #11 / American Airlines
408	Air Freight Building #10 / American Airlines
409	United States Postal Service (USPS)

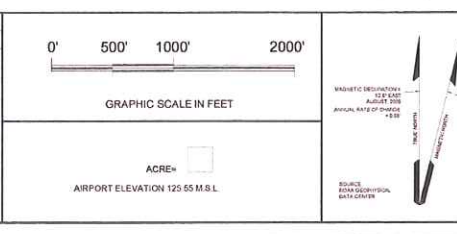
No.	FACILITY
412	Air Freight Building #8
413	US Airways Cargo Building
414	Air Freight Building #1
416	Fire Station 95
417	United Cargo Building
418	Asiana Cargo/United Airlines
419	Flourish Grill Restaurant
420	U.S. Customs & Border Patrol (CBP)/AMB
421	Issao Holdings
422	Travelodge Hotel/Denny's Restaurant
423	Greene's Ready Mix (Cal Portland)
501	Carl E. Nielsen Youth Park
502	United States Postal Service (USPS) Post Office
503	Avis Car Rental Facility
504	National Car Rental Facility

No.	FACILITY
601	Jet Pets
602	First Flight Child Development Center
603	Fire Station 5



- Notes:**
- Runway Safety Areas are in accordance with the Airport Certification Manual, (12-27-07).
  - All elevations shown are in feet above Mean Sea Level (MSL).
  - Taxiways are 75 feet wide, except where noted.
  - Taxiways have FAA approved modification of standards. Group VI OFA is 167 feet from Centerline

SYMBOL		ITEM	
[Blue Box]	BUILDINGS ON AIRFIELD	[Blue Box]	BUILDINGS ON AIRFIELD
[Grey Box]	ROADWAYS AND AUTO PARKING	[Blue Box]	OBSTACLE FREE ZONE (OFZ)
[Yellow Box]	TAXIWAY AND APRON PAVEMENT	[Red Box]	RUNWAY PROTECTION ZONE (RPZ)
[Orange Box]	RUNWAY PAVEMENT	[Red Box]	RUNWAY SAFETY AREA (RSA)
[Green Box]	AIRPORT PROPERTY	[Red Box]	OBJECT FREE AREA (OFA)
[Black Box]	AIRPORT PROPERTY LINE	[Red Box]	BUILDING RESTRICTION LINE (BRL)
[Dashed Line]	VOLUNTARY RESIDENTIAL ACQUISITION AND RELOCATION PROGRAM AREA	[Red Box]	PRECISION OBSTACLE FREE ZONE (POFZ)
[Dotted Line]	UNDER FINAL DESIGN / CONSTRUCTION	[Red Box]	AIRPORT SURFACE DETECTION EQUIPMENT X (ASDE-X)
[Red Box]	PROPOSED TAXIWAY CONFIGURATION	[Red Box]	CLOSED TAXIWAY
[Blue Box]	EL SEGUNDO BLUE BUTTERFLY HABITAT RESTORATION AREA	[Red Box]	PROPOSED TAXIWAY CLOSURE
[Blue Box]	EL SEGUNDO BLUE BUTTERFLY HABITAT RESTORATION AREA	[Red Box]	PROPOSED TAXIWAY CLOSURE
[Blue Box]	EL SEGUNDO BLUE BUTTERFLY HABITAT RESTORATION AREA	[Red Box]	PROPOSED TAXIWAY CLOSURE



**FAA APPROVAL**

Los Angeles World Airports  
**AIRPORT LAYOUT PLAN  
EXISTING LAYOUT PLAN SHEET  
LOS ANGELES INTERNATIONAL AIRPORT**

PREPARED BY: [Signature]  
CHECKED BY: [Signature]  
DATE: 12/07/09  
SHEET NUMBER: 2 OF 2  
SCALE: 1" = 500'  
PROJECT NUMBER: 20090002-200A

SCHEDULE 3

PROVIDED TO FACILITY USER

EXHIBIT A

Equal Employment Practices

# 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 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 B

Affirmative Action

**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 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.

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.*

EXHIBIT C

Living Wage Ordinance

# LOS ANGELES ADMINISTRATIVE CODE

## Div. 10, Ch. 1, Art. 11

### LIVING WAGE ORDINANCE

#### 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 others for the purpose of economic development or job growth. The City expends grant funds under programs created by the federal and state governments. Such expenditures serve to promote the goals established for those programs by such governments and 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 such grant programs are established.

Experience indicates that procurement by contract of services has all too often resulted in payment by service contractors to their employees of wages at or slightly above the minimum required by federal and state minimum wage laws. Such minimal compensation tends to inhibit the quantity and quality of services rendered by such 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 that will improve the level of services rendered to and for the City.

The inadequate compensation typically paid today also fails to provide service employees with resources sufficient to afford life in Los Angeles. It is unacceptable that contracting decisions involving the expenditure of City funds should foster conditions placing 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.

Nothing less than the living wage should be paid by the recipients of City financial themselves. 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. This article is meant to protect these employees as well.

The City holds a proprietary interest in the work performed by many employees employed by lessees and licensees of City property 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 does the same for the success of City operations. By the 1998 amendment to this article, recognition is given to the prominence of this interest at those facilities visited by the public on a frequent basis, including but not limited to, terminals at Los Angeles International Airport, Ports O'Call Village in San Pedro, and golf courses and recreation centers operated by the Department of Recreation and Parks. This article is to cover all such employees not expressly exempted.

Requiring payment of the living wage serves both proprietary and humanitarian concerns of the City. Primarily because of the latter concern and experience to date regarding the failure of some employers to honor their obligation to pay the living wage, the 1998 amendments introduce additional enforcement mechanisms to ensure compliance with this important obligation. Non-complying employers must now face the prospect of paying civil penalties, but only if they fail to cure non-compliance after having been given formal notice thereof. Where non-payment is the issue, employers who dispute determinations of non-compliance may avoid civil penalties as well by paying into a City holding account the monies in dispute. Employees should not fear retaliation, such as by losing their jobs, simply because they claim their right to the living wage,

irrespective of the accuracy of the claim. The 1998 amendments strengthen the prohibition against retaliation to serve as a critical shield against such employer misconduct.

## 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.*

### Sec. 10.37.1 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 financial assistance recipient that awards or is otherwise responsible for the administration of a service contract or 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.

(b) **"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, but excludes the Community Redevelopment Agency of the City of Los Angeles ("CRA"). The CRA is urged, however, to adopt a policy similar to that set forth in this article.

(c) **"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 one million dollars (\$1,000,000) or more in any twelve-month period shall require compliance with this article for five years from the date such assistance reaches the one million dollar (\$1,000,000) threshold. For assistance in any twelve-month period totaling less than one million dollars (\$1,000,000) but at least one hundred thousand dollars (\$100,000), there shall be compliance for one year if at least one hundred thousand dollars (\$100,000) of such assistance is given in what is reasonably contemplated at the time to be on a continuing basis, with the period of compliance beginning when the accrual during such twelve-month period of such continuing assistance

reaches the one-hundred thousand dollar (\$100,000) threshold.

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 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), 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 existence, in which case the exemption shall last for one (1) year, (2) it employs fewer than five (5) employees for each working day in each of twenty (20) or more calendar weeks in the current or preceding calendar year, or (3) it obtains a waiver as provided herein. A recipient -- who employs the long-term unemployed or provides trainee positions intended to prepare employees for permanent positions, and who claims that compliance with this article would cause an economic hardship -- may apply in writing to the City department or office administering such assistance, which department or office shall forward such application and its recommended action on it to the City Council. Waivers shall be effected by Council resolution.

(d) **"Contractor"** means any person that enters into (1) a service contract with the City, (2) a service contract with a public lessee or sublessee or licensee 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 (f).

(e) **"Designated administrative agency (DAA)"** means that City department or office designated by Council resolution to bear administrative responsibilities under section 10.37.7. The City Clerk shall maintain a record of such designations.



(f) **"Employee"** means any person -- who is not a managerial, supervisory, or confidential employee and who is not required to possess an occupational license -- who is employed (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 a public lessee or licensee, of a sublessee or sublicensee, or of a service contractor or subcontractor of a public lessee or licensee, or sublessee or sublicensee -- who works on the leased or licensed premises; (3) by a City financial assistance recipient who expends at least half of his or her time on the funded project; (4) by 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.

(g) **"Employer"** means any person who is a City financial assistance recipient, contractor, subcontractor, public lessee, public sublessee, public licensee, or public sublicensee and who is required to have a business tax registration certificate by Los Angeles Municipal Code §§ 21.00 - 21.198 or successor ordinance or, if expressly exempted by the Code from such tax, would otherwise be subject to the tax but for such exemption; provided, however, that corporations organized under §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 (8) times the lowest wage paid by the corporation, shall be exempted as to all employees other than child care workers.

(h) **"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.

(i) **"Public lease or license."**

(a) Except as provided in (i)(b), "Public lease or license" means a lease or license of City property 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 substantial numbers of the public on a frequent basis (including, but not limited to, airport passenger terminals, parking lots, golf courses, recreational facilities); or

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

(3) The DAA has determined in writing that coverage would further the proprietary interests of the City.

(b) A public lessee or licensee will be exempt from the requirements of this article subject to the following limitations:

(1) The lessee or licensee has annual gross revenues of less than the annual gross revenue threshold, three hundred fifty thousand dollars (\$350,000), from business conducted on City property;

(2) The lessee or licensee employs no more than seven (7) people total in the company on and off City property;

(3) To qualify for this exemption, the lessee or licensee must provide proof of its gross revenues and number of people it employs in the company's entire workforce to the awarding authority as required by regulation;

(4) Whether annual gross revenues are less than three hundred fifty thousand dollars (\$350,000) shall be determined based on the gross revenues for the last tax year prior to application or such other period as may be established by regulation;

(5) The annual gross revenue threshold shall be adjusted annually at the same rate and at the same time as the living wage is adjusted under section 10.37.2 (a);

(6) A lessee or licensee shall be deemed to employ no more than (7) people if the

company's entire workforce worked an average of no more than one thousand two-hundred fourteen (1,214) hours per month for at least three-fourths (3/4) of the time period that the revenue limitation is measured;

(7) Public leases and licenses shall be deemed to include public subleases and sublicenses:

(8) If a public lease or license has a term of more than two (2) years, the exemption granted pursuant to this section shall expire after two (2) years but shall be renewable in two-year increments upon meeting the requirements therefor at the time of the renewal application or such period established by regulation.

(j) "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 twenty-five thousand dollars (\$25,000) and a contract term of at least three (3) months; but only where any of the following applies: (1) at least some of the services rendered are rendered by employees whose work site is on property owned by the City, (2) the services could feasibly be performed by City employees if the awarding authority had the requisite financial and staffing resources, or (3) the DAA has determined in writing that coverage would further the proprietary interests of the City.

(k) "Subcontractor" means any person not an employee that enters into a contract (and that 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 public 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 (f).

(l) "Willful violation" means that the employer knew of his, her, or its obligations under this article and deliberately failed or refused to comply with its provisions.

## 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.  
Amended by: Subsec. (a), (d), (f), (g) (i), (k), Ord. No. 173747, Eff. 1-03-01.*

### Sec. 10.37.2 Payment of Minimum Compensation to Employees.

#### (a) Wages

Employers shall pay employees a wage of no less than the hourly rates set under the authority of this article. The initial rates were seven dollars and twenty-five cents (\$7.25) per hour with health benefits, as described in this article, or otherwise eight dollars and fifty cents (\$8.50) per hour. With the annual adjustment effective July 1, 1998, such rates were adjusted to seven dollars and thirty-nine cents (\$7.39) per hour with health benefits and eight dollars and sixty-four cents (\$8.64) without. Such rates shall continue to 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 CERS Board of Administration under § 4.1040. The Office of Administrative and Research Services 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 upon such publication.

#### (b) Compensated days off

Employers shall provide at least twelve (12) compensated days off per year for sick leave, vacation, or personal necessity at the employee's request. Employers shall also permit employees to take at least an additional ten (10) days a 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 days off for that year.

## 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.  
Amended by: Subsec. (a), Ord. No. 173747, Eff. 1-03-01.*

### Sec. 10.37.3 Health Benefits.

Health benefits required by this article shall consist of the payment of at least one dollar and twenty-five

cents (\$1.25) per hour towards the provision of health care benefits for employees and their dependents. 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.

### 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.*

#### **Sec. 10.37.4 Notifying Employees of their Potential Right to the Federal Earned Income Credit.**

Employers shall inform employees making less than twelve dollars (\$12) per hour of their possible right to the federal Earned Income Credit ("EIC") under § 32 of the Internal Revenue Code of 1954, 26 U.S.C. § 32, and shall make available to employees forms informing them about the EIC and forms required to secure advance EIC payments from the employer.

### 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.*

#### **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

*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.*

#### **Sec. 10.37.6 Enforcement.**

(a) An employee claiming violation of this article may bring an action in the Municipal Court or Superior Court of the State of California, as

appropriate, against an employer and may be awarded:

(1) For failure to pay wages required by this article -- back pay for each day during which the violation continued.

(2) For failure to pay medical benefits -- the differential between the wage required by this article without benefits and such wage with benefits, less amounts paid, if any, toward medical benefits.

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

(4) For willful violations, the amount of monies to be paid under (1) - (3) 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 so prevails if the employee's suit was frivolous.

(c) Compliance with this article shall be required in all City contracts to which it applies, and such contracts shall provide that violation of this article shall constitute a material breach thereof and entitle the City to terminate the contract and otherwise pursue legal remedies that may be available. Such contracts shall also include a pledge that there shall be compliance with federal law proscribing retaliation for union organizing.

(d) An employee claiming violation of this article may report such claimed violation to the DAA which shall investigate such complaint. Whether based upon such a complaint or otherwise, 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 (10) days. In the event that the employer has not demonstrated to the DAA within such period that it has cured such 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, termination of the service contract, public lease or license, or financial assistance

agreement and the return of monies paid by the City for services not yet rendered.

(2) Request the City Council to debar the employer from future City contracts, leases, and licenses for three (3) years or until all penalties and restitution have been fully paid, whichever occurs last. Such debarment shall be to the extent permitted by, and under whatever procedures may be required by, law.

(3) Request the City Attorney to bring a civil action against the employer seeking:

(i) Where applicable, payment of all unpaid wages or health premiums prescribed by this article; and/or

(ii) A fine payable to the City in the amount of up to one hundred dollars (\$100) for each violation for each day the violation remains uncured.

Where the alleged violation concerns non-payment of wages or health premiums, the employer will not be subject to debarment or civil penalties if it pays the monies in dispute into a holding account maintained by the City for such purpose. Such disputed monies shall be presented to a neutral arbitrator for binding arbitration. The arbitrator shall determine whether such monies shall be disbursed, in whole or in part, to the employer or to the employees in question. Regulations promulgated by the DAA shall establish the framework and procedures of such arbitration process. The cost of arbitration shall be borne by the City, unless the arbitrator determines that the employer's position in the matter is frivolous, in which event the arbitrator shall assess the employer for the full cost of the arbitration. Interest earned by the City on monies held in the holding account shall be added to the principal sum deposited, and the monies shall be disbursed in accordance with the arbitration award. A service charge for the cost of account maintenance and service may be deducted therefrom.

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

#### 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.  
Amended by: Subsec. (d)(1), Ord. No. 173747, Eff. 1-03-01.*

#### 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(j), and that particular leases and licenses shall be regarded as "public leases" or "public licenses" for purposes of section 10.37.1(i), when it receives an application for a determination of non-coverage or exemption as provided for in section 10.37.13. 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 § 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 Chief 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 workers, their employers, and the City. Within ninety days of the adoption of this article, these offices shall develop detailed plans for evaluation, including a determination of what current and future data will be needed for effective evaluation.

#### 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.  
Amended by: Ord. No. 173747, Eff. 1-03-01.*

**Sec. 10.37.8 Exclusion of Service Contracts from Competitive Bidding Requirement.**

Service contracts otherwise subject to competitive bid shall be let by competitive bid if they involve the expenditure of at least two-million dollars (\$2,000,000). Charter § 387 shall not be applicable to service contracts.

**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.*

**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**

*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.*

**Sec. 10.37.10 Expenditures Covered.**

This article shall apply to the expenditure -- whether through aid to City financial 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**

*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.*

**Sec. 10.37.11 Timing of Application.**

(a) Original 1997 ordinance.

The provisions of this article as enacted by City ordinance no. 171,547, effective May 5, 1997, shall apply to (1) contracts consummated and financial assistance provided after such date, (2) contract amendments consummated after such date and before the effective date of the 1998 ordinance which themselves met the requirements of former section 10.37.1(h) (definition of "service contract") or which

extended contract duration, and (3) supplemental financial assistance provided after May 5, 1997 and before the effective date of the 1998 ordinance which itself met the requirements of section 10.37.1(c).

(b) 1998 amendment.

The provisions of this article as amended by the 1998 ordinance shall apply to (1) service contracts, proprietary leases or licenses, and financial assistance agreements consummated after the effective date of such ordinance and (2) amendments, consummated after the effective date of such ordinance, to service contracts, proprietary leases or licenses, and financial assistance agreements that provide additional monies or which extend term.

(c) 2000 amendment.

The provisions of this article as amended by the 2000 ordinance shall apply to (1) service contracts, public leases or public licenses and City financial assistance recipient agreements consummated after the effective date of such ordinance and (2) amendments to service contracts, public leases or licenses and City financial assistance recipient agreements which are consummated after the effective date of such ordinance and which provide additional monies or which extend the term.

**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.  
Added Subsec. (c), Ord. No. 173747, Eff. 1-03-01.*

**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.

**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.*

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

The definitions of "City financial assistance recipient" in section 10.37.1(c), of "public lease or license" in section 10.37.1(i), and of "service

contract" in section 10.37.(j) shall be liberally interpreted so as to further the policy objectives of this article. All recipients of City financial assistance meeting the monetary thresholds of section 10.37.1(c), all City leases and licenses (including subleases and sublicenses) where the City is the lessor or licensor, and all City contracts providing for services that are more than incidental, shall be presumed to meet the corresponding definition just mentioned, 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**

*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.  
Amended by: Ord. No. 173747, Eff. 1-03-01.*

#### **Sec. 10.37.14 Severability**

If any provision of this article is declared legally invalid by any court of competent jurisdiction, the remaining provisions shall remain in full force and effect.

#### **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*

ORDINANCE NO. 180877

An ordinance amending Sections 10.37.1, 10.37.2, 10.37.3 and adding a new subsection (d) to Section 10.37.11 of the Los Angeles Administrative Code to provide certain covered airport workers with an increased health benefit payment and to additionally index such health benefit payment to correspond to changes in the Consumer Price Index and require a periodic review of the health benefit payment.

**THE PEOPLE OF THE CITY OF LOS ANGELES  
DO ORDAIN AS FOLLOWS:**

**Section 1. Legislative Findings.** In 1997, Los Angeles became one of the first cities in the nation and the first in California to pass a living wage ordinance ("LWO") requiring certain City contractors, financial assistance recipients, lessees, exclusive and non-exclusive licensees, and other persons and entities doing business with the City to pay employees a living wage. As of July 1, 2009, the LWO requires covered employers to pay a wage of \$10.30 per hour with health benefits and \$11.55 per hour without health benefits.

While the wage portion of the LWO is indexed to the Consumer Price Index (CPI) and, as a result, has risen from \$7.25 per hour to \$10.30 per hour as of July 1, 2009, the health benefit payment is not similarly indexed to the CPI and so has remained at \$1.25 per hour since the LWO was adopted in 1997. Additionally, the health benefit payment has not been periodically reviewed to ensure that the payment accurately reflects the actual cost of health care. Studies, including a study performed by Mercer Human Resource Consulting at the request of the Office of Administrative and Research Services, show that a payment of \$1.25 per hour is clearly insufficient to cover the actual cost of health care. As a result of the health benefit payment being so low compared to the actual cost of coverage, employees either have no access to an employer-provided health plan or must pay large out-of-pocket costs in order to access such a health plan for themselves and their family members.

Studies, including the study performed by Mercer Human Resource Consulting, show that high employee cost share relative to available income can curtail access to medical care providers, the purchase of medication, and the pursuit of follow-up treatment. The lack of health benefits among employees is particularly significant at the City's airports, where, for instance, as many as 2,600 workers covered by the LWO and their family members lack health benefits or rely on public health insurance. A 2009 LAANE study attributes high turnover rates among airline service workers who have key operational duties such as security and assisting passengers with disabilities to a lack of health benefits, and various studies and polls, including the LAANE study, have shown that providing family health insurance coverage increases the ability of employers to retain workers.

The LWO recognizes that the City holds a proprietary interest and genuine stake in the work performed by employees employed by lessees and licensees of City

property and by their service contractors and subcontractors, and by a 1998 amendment, recognized the prominence of this interest at facilities visited by the public on a frequent basis, including the City's airports.

The City through the Department of Airports has embarked upon a number of projects and initiatives to improve the passenger experience at LAX, including: (i) the adoption of a Service Standards Policy; (ii) an extensive capital improvement program that includes the renovation and upgrading of the Tom Bradley International Terminal; and (iii) a revamping of its concessions program. The retention of a qualified and stable workforce is vital to the success of these efforts.

Workers at the City's airports routinely interface with the traveling public and, therefore, are both particularly at risk of exposure to the H1N1 virus and other epidemics and pandemics and to exposing the traveling public to illnesses as well, thereby risking widespread and accelerated spreading of communicable illnesses worldwide. For instance, at LAX alone, some 51 million international and domestic passengers travel through its nine terminals, making LAX one of the busiest airports in the world.

In addition, the lack of health benefits among workers at City airports confers a heavy burden on taxpayers. Taxpayers spend an estimated \$3.9 million per year to cover the cost of the Medi-Cal and Healthy Families programs for LAX workers and their families. According to Families USA, eight people in California are estimated to die every day due to lack of health coverage, and uninsured children are six times more likely than insured children to have gone without needed medical or dental care, more likely to be hospitalized for preventable or treatable illnesses, and more likely to miss school.

Moreover, a 2005 study of families who filed for bankruptcy protection found that half cited medical causes, and a Harvard researcher studying home foreclosures in California and three other states found that medical bills contributed to twenty-three percent of all home foreclosure filings. Burdening working families with unmanageable medical expenses worsens and deepens the nation's economic crisis.

In order to address and correct the conditions enumerated above, this ordinance amends the LWO to increase the health benefit for workers at the City's airports covered by the LWO in order to promote the provision of health benefits to eligible airport workers and their families, and additionally provides for annual adjustments to and periodic reviews of the health benefit payment to airport workers to ensure that the amount accurately reflects the cost of health coverage.

Sec. 2. Subsections (a) through (l) of Section 10.37.1 of the Los Angeles Administrative Code are redesignated as Subsections (d) through (o), and three new Subsections, designated (a) through (c) are added to read as follows:



(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.

Sec. 3. Subsection (a) of Section 10.37.2 of the Los Angeles Administrative Code is amended in its entirety to read as follows:

(a) **Wages.** Employers shall pay Employees a wage of no less than the hourly rates set under the authority of this article. The initial rates were seven dollars and twenty-five cents (\$7.25) per hour with health benefits, as described in this article, or otherwise eight dollars and fifty cents (\$8.50) per hour without health benefits. With the annual adjustment effective July 1, 2009, together with all previous annual adjustments as provided by this subsection, such rates are ten dollars and thirty cents (\$10.30) per hour with health benefits or, if health benefits are not provided, then fourteen dollars and eighty cents (\$14.80) per hour for Airport Employees and eleven dollars and fifty-five cents (\$11.55) per hour for all other Employees. 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 CERS Board of Administration under § 4.1040. The Office of Administrative and Research Services 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 upon such publication.

Sec. 4. Section 10.37.3 is amended in its entirety to read as follows:

**Sec. 10.37.3 Health Benefits.**

(a) **Health Benefits.** The health benefits required by this article shall consist of the payment of at least four dollars and fifty cents (\$4.50) per hour by Airport Employers and at least one dollar and twenty-five cents (\$1.25) per hour by all other Employers towards the provision of health care benefits for Employees and their dependents. Proof of the provision of such benefits must be submitted to the awarding authority to qualify for the wage rate in Section 10.37(a) for Employees with health benefits. Airport Employees cannot waive the health benefits offered by an Airport Employer when the Airport Employer does not require an out-of-pocket contribution by the Airport Employee. Consistent with and as shall be reflected in the hourly rates payable to Airport Employees as provided in 10.37.2(a) above, the amount of payment for health benefits by Airport Employers 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 CERS Board of Administration under § 4.1040. The Office of Administrative and Research Services 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 upon such publication.

**(b) Periodic Review.**

At least once every three years, the Office of Administrative and Research Services shall review the health benefit payment by Airport Employers set forth in 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.

Sec. 5. A new Subsection (d) of Section 10.37.11 is added to read as follows:

**(d) 2009 Amendment.** The provisions of this article as amended by the 2009 ordinance shall become operative ninety (90) days following the effective date of the 2009 ordinance.

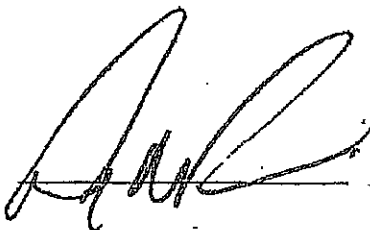
Sec. 6. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that this ordinance was passed by the Council of the City of Los Angeles, at its meeting of SEP 09 2009.

JUNE LAGMAY, City Clerk


By  Deputy

Approved \_\_\_\_\_

 SEP 15 2009  
Mayor

Approved as to Form and Legality

CARMEN A. TRUTANICH, City Attorney

By   
THERESA A. STAMUS  
Sr. Assistant City Attorney

Date September 9, 2009

File No. 07-2247

EXHIBIT D

Living Wage Coverage Determination

**DEPARTMENTAL DETERMINATION OF COVERAGE UNDER THE LIVING WAGE ORDINANCE (LWO)**  
**(TO BE COMPLETED BY THE AWARDING DEPARTMENT ONLY)**

This form must be completed by the awarding department to assist in determining if the contract is subject to the LWO. Attach the form to the proposed contract, lease, license, or Authority for Expenditure that includes a Letter of Agreement, submitted for review by the Department of Public Works, Bureau of Contract Administration, Office of Contract Compliance (OCC) and City Attorney. Contracts are presumed to be "subject" to the Ordinance so LWO contract language must be incorporated into all contracts, even for those contracts that the department determines to be exempt. If the department determines the contract is "not covered" or "exempt," such determination must be indicated on this form (and if so required, an Exemption form must also be attached to this Determination). After contract execution, the contract, this Determination Form, and any Certification of approved Exemption must be provided to the Office of Contract Compliance.

Department \_\_\_\_\_ Dept. Rep. \_\_\_\_\_  
 Date \_\_\_\_\_ Phone # \_\_\_\_\_  
 Contractor \_\_\_\_\_ Contract # \_\_\_\_\_

**Contracts, Leases, Licenses and City Financial Assistance Recipients (CFARs) Subject to the LWO**

	LAAC	Covered	Not Covered
Service contract (at least 3 months and over \$25,000)	10.37.1(j)	_____	_____ (Attach approved LW-10)
Public leases or licenses	10.37.1(f)	_____	_____ (Attach approved LW-10)
501(c)(3) non-profit with childcare workers	10.37.1(g)	_____	_____
Financial assistance of more than \$1 Million in 12 months	10.37.1(c)	_____	_____
Financial assistance of \$100,000 or more (continuing)	10.37.1(c)	_____	_____

**Contracts, Leases, Licenses and City Financial Assistance Recipients (CFARs) Exempt from the LWO**

<u>Exemptions that DO NOT require OCC approval or Contractor Certification</u>		Exempt	Term	Amount
Service contract (less than 3 months or \$25,000 or less)	10.37.1(j)	_____	_____	_____
Other governmental entity	10.37.1(g)	_____	_____	_____
Purchase or rental of goods, equipment, property	10.37.1(j)	_____	_____	_____
Construction contract	10.37.1(f)	_____	_____	_____
Funded by Business Improvement District assessment money	Reg. 11	_____	_____	_____
Financial assistance not for econ. development or job growth	10.37.1(c)	_____	_____	_____
Financial assistance is below both LWO CFAR thresholds	10.37.1(c)	_____	_____	_____
(a) Financial assistance must be less than \$1 Million in a 12-month period AND				
(b) Is less \$100,000 if on a continuing basis (such as a loan at a rate lower than the Applicable Federal Rate)				

**Exemptions that require Contractor Certifications of Exemption from Living Wage (OCC/LW-13)**

501(c)(3) non-profit meets 8:1 salary test & no childcare workers	10.37.1(g)	_____	(Attach Certification)
One-person contractors, lessee/licensee, financial assistance recipients with no employees	10.37.1(f)	_____	(Attach Certification)

**Exemptions that require submission of an Application (OCC/LW-10 or OCC/LW-26) and OCC Approval of the Application**

Occupational license required	10.37.1(i)	_____	(Attach approved LW-10)
Collective bargaining agreement w/ supersession language	10.37.12	_____	(Attach approved LW-10)
Small business exemption for public lessee or licensee	10.37.1(f)	_____	(Attach approved LW-26)
City financial assistance recipient in first year of operation	10.37.1(c)	_____	(Attach approved LW-10)
City financial assistance recipient that employs long-term unemployed or provides training for permanent positions requesting hardship waiver	10.37.1(c)	_____	(Attach approved LW-10)

EXHIBIT E

Living Wage Ordinance Declaration of Compliance Form

**CITY OF LOS ANGELES**  
**Office of the City Administrative Officer**  
**Contractor Enforcement Section**  
**200 North Main Street, Room 606**  
**Los Angeles, CA 90012**  
**Phone: (213) 485-3514 – Fax: (213) 485-0672**

**DECLARATION OF COMPLIANCE**  
**Service Contract Worker Retention Ordinance and the Living Wage Ordinance**

Los Angeles Administrative Code (LAAC) Sections 10.36 et seq. and 10.37 et seq. provide that all employees (except where specifically exempted) under contracts primarily for the furnishing of services to or for the City and that involve an expenditure in excess of \$25,000 and a contract term of at least three months; leases; licenses or, certain recipients of City financial assistance, shall comply with all applicable provisions of the Ordinances.

During the performance of this agreement, the contractor, lessee, licensee, or City financial assistance recipient certifies that it shall comply and require each subcontractor hereunder to comply with the provisions of the above referenced Ordinances. The contractor shall provide to the City a list of all subcontractors and a list of all employees under the agreement (including employees of subcontractors) within 10 days after execution. The list of employees shall include the name, position classifications and rate of pay for each employee. An updated list shall be submitted upon demand and upon termination of the contract. A completed Declaration of Compliance from each subcontractor subject to the Living Wage Ordinance must be provided to the Office of the City Administrative Officer within 90 days of execution of the subcontract. In case of a successor service contract, a successor contractor shall retain for a 90-day transition employment period, employees who have been employed by the terminated contractor or its subcontractor, if any, for the preceding 12 months or longer, pursuant to Section 10.36.2.

The contractor, lessee, licensee, or City financial assistance recipient further agrees:

- (a) To pay covered employees a wage no less than the minimum initial compensation of \$7.99 per hour (adjusted July 1, 2001) with the health benefits, as referred to in (c) below, or otherwise \$9.24 per hour (adjusted July 1, 2001), pursuant to Section 10.37.2(a). Such rates shall be adjusted annually and shall become effective July 1.
- (b) To provide at least 12 compensated days off per year for sick leave, vacation or personal necessity at the employee's request, and at least 10 additional days per year of uncompensated time off pursuant to Section 10.37.2(b) and Regulation 4(e)(3)
- (c) Where so elected under (a) above, to pay at least \$1.24 per hour per employee toward the provision of health benefits for the employees and their dependents pursuant to Section 10.37.3;
- (d) To inform employees making less than \$12 per hour of their possible right to the federal Earned Income Tax Credit (EITC) and make available the forms required to secure advance EITC payments from the employer pursuant to Section 10.37.4;
- (e) To 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 City; and,
- (f) Not to retaliate against any employee claiming non-compliance with the provisions of these Ordinances and to comply with federal law prohibiting retaliation for union organizing.

**Failure to complete and submit this form to the Awarding Authority and to the Office of the City Administrative Officer may result in withholding of payments by the City Controller, or contract termination.**

**Check box only if applicable:  I certify under penalty of perjury that I do not have any employees earning less than \$15 per hour working on this City agreement.**

<b>Company Name</b>		<b>Signature of Officer or Authorized Representative</b>	
<b>Company Address and Phone Number</b>		<b>Type or Printed Name and Title</b>	
<b>Date</b>	<b>Contact Number</b>	<b>Awarding City Department</b>	<b>Type of Service</b>

Form CAO/LW-5, Rev. 7/5/01

**EXHIBIT E**  
**Declaration of Compliance**

EXHIBIT F

Service Contractor Worker Retention Ordinance



# LOS ANGELES ADMINISTRATIVE CODE

## Div. 10, Ch. 1, Art. 10

### SERVICE CONTRACTOR WORKER RETENTION ORDINANCE

#### 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 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 others for the purpose of economic development or job growth. At the conclusion of the terms of a service contract with the City or with those receiving financial assistance from the City, competition results in the awarding of a service contract to what may be a different contractor. These new contracts often involve anticipated changes in different managerial skills, new technology or techniques, new themes or presentations, or lower costs.

The City expends grant funds under programs created by the federal and state governments. Such expenditures serve to promote the goals established for those programs by such governments and 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.

Despite desired changes through the 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 already invaluable knowledge and experience with the work schedules, practices, and clients. The benefits of replacing these workers without such experiences decreases efficiency and results in a disservice to City and City financed or assisted projects.

Retaining existing service workers when a change in contractors 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 citizens who receive services provided by the City or by City financed or assisted projects.

It is unacceptable that contracting decisions involving the expenditure of City funds should have any 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.*

#### 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 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, including those City departments which exercise independent control over their expenditure of funds, but excludes the Community Redevelopment Agency of the City of Los Angeles.
- (c) "**City financial assistance recipient**" means any person that receives from the City in any twelve-month period discrete financial assistance for economic development or job growth expressly articulated and identified by the City totaling at least one hundred thousand dollars (\$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 five million dollars (\$5,000,000) or that regularly employ homeless persons, persons who are chronically unemployed, or persons receiving public assistance, shall be exempt.

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 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. Sections 1274(d), 7872(f). A recipient shall not be deemed to include lessees and sublessees. Service contracts for economic development or job growth shall be deemed 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.

(e) **"Employee"** means any person employed as a service employee of a contractor or subcontractor earning less than fifteen dollars (\$15.00) per hour in salary or wage whose primary place of employment is in the City on or under the authority of a service contract and 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; and does not include a person who is (1) a managerial, supervisory, or confidential employees, or (2) required to possess an occupational license.

(f) **"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.

(g) **"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 financial assistance recipient (as opposed to the purchase of goods or other property) and that involves an expenditure or receipt in excess of twenty-five thousand dollars (\$25,000) and a contract term of at least three months.

(h) **"Subcontractor"** means any person not an employee that enters into a contract with a contractor to assist the contractor in performing a service contract and that employs employees for such purpose.

(i) **"Successor service contract"** means a service contract where the services to be performed are substantially similar to a service contract that has been recently terminated.

## 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.*

### 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 service contractor has given notice of such termination, upon receiving or giving such notice, as the case may be, the terminated contractor shall within ten (10) days thereafter provide to the successor contractor 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 successor contractor, 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 (10)-day period, the employment information referred to earlier in this subsection shall be provided to the awarding authority at such time. 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 by under multiple service contracts, the City or City financial aid recipient shall pool the employees, ordered by seniority within job classification, under such prior contracts.

(2) Where the use of subcontractors has occurred under the terminated contract or where the use of subcontractors is to be permitted under the successor contract, or where both circumstances arise, the City or City financial assistance recipient shall pool, when applicable, the employees, ordered by seniority within job classification, under such prior contracts or subcontracts where required by and in accordance with rules authorized by this article.

(b) A successor contractor shall retain, for a ninety (90)-day transition employment period, employees who have been employed by the terminated contractor or its subcontractors, if any, for the preceding twelve (12) months or longer. Where pooling of employees has occurred, the successor contractor shall draw from such pools in accordance with rules established under this article. During such ninety (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.

(c) If at anytime 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.

(d) During such ninety (90)-day 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.

(e) Except as provided in subsection (c) of this section, during such ninety (90)-day 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 employee's conduct while in the employ of the terminated contractor or subcontractor that contributed to any decision to terminate the contract or subcontract for fraud or poor performance.

(f) At the end of such ninety (90)-day 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 ninety (90)-day period is satisfactory, the successor contractor (or subcontractor) shall offer the employee continued employment under the terms and conditions established by the successor contractor (or subcontractor) or as required by law. During such ninety (90)-day period, the successor contractor shall maintain a preferential hiring list of eligible covered employees not retained by the successor contractor from which the successor contractor shall hire additional employees.

(g) 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 recipient's own service employees, the City or the recipient, as the case may be, shall be deemed to be a "terminated contractor" within the meaning of this section and the contractor under the service contract shall be deemed to be a "successor contractor" within the meaning of this section and section 10.36.3.

## 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.*

### 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 Municipal Court or Superior Court of the State of California, as appropriate, 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 3 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 such 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) Notwithstanding any provision of this Code or any other ordinance 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.*

**Sec. 10.36.4. Exemption for Successor Contractor or Subcontractor's Prior Employees.**

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 twelve (12) months prior to the commencement of the successor service contract or subcontract who is proposed to work on such contract or subcontract as an employee in a capacity similar to such 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 contract or subcontract. Once a person so exempted commences work under a service contract or subcontract, he or she shall be deemed an employee as defined in Section 10.36.1(e) of this Code.

**SECTION HISTORY**

*Added by Ord. No. 170,784, Eff. 1-13-96.  
Amended By: Ord. No. 171,004, Eff. 5-18-96.*

**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.*

**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 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. 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 themselves with § 10.36.2(g) and by contractually requiring their service contractors 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*

**Sec. 10.36.7. Timing of Application of Ordinances Adding and then Amending this Article.**

The provisions of this article as set forth in City Ordinance No. 171,004 shall apply to contracts consummated and financial assistance provided after May 18, 1996 (the effective date of City Ordinance No. 171,004). As for contracts consummated and financial assistance provided after the original version of this article took effect on January 13, 1996 (by City Ordinance No. 170,784) and through May 18, 1996, the City directs its appointing authorities and urges others affected to use their best efforts to work cooperatively so as to allow application City Ordinance No. 171,004 rather than City Ordinance No. 170,784 to service contracts let during such period. No abrogation of contract or other rights created by City Ordinance No. 170,784, absent consent to do so, shall be effected by the retroactive application of City Ordinance No. 171,004.

**SECTION HISTORY**

*Added by Ord. No. 171,784, Eff.1-13-96.  
Amended by: Ord. No. 171,004, Eff. 5-18-96; Ord. No. 172,337, Eff. 1-14-99.*

**Sec. 10.36.8. Promulgation of Implementing Rules.**

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.

**SECTION HISTORY**

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

**Sec. 10.36.9. Severability.**

If any severable provision or provisions of this article or any application thereof is held invalid, such invalidity shall not affect other provisions or applications of the article that can be given effect notwithstanding such invalidity.

**SECTION HISTORY**

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

EXHIBIT G

Child Support Assignment Orders

**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 left, 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 H

Contractor Responsibility Program

# **LOS ANGELES WORLD AIRPORTS**



## **CONTRACTOR RESPONSIBILITY PROGRAM**

### **RULES AND REGULATIONS FOR LEASES**

**Effective date: May 20, 2002**

Procurement Services Division  
7301 World Way West, Rm 105  
Los Angeles, CA 900145  
(310) 417-6495  
(310) 646-7098 (Fax)

**EXHIBIT H**  
Contractor Responsibility Program  
Rules and Regulations for Leases

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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**

**1. Adoption of CRP definitions:** For purposes of these Rules and Regulations, the definitions set forth in the Board Resolution are incorporated herein, and include the following:

- a. **Board**
- b. **Executive Director**
- c. **Los Angeles World Airports (LAWA)**
- d. **Lease agreement** means a written document in which the rights to use and occupancy of land or structures are transferred by the owner to another for a specified of time in return for a specified rent.
- e. **Tenant** - means Lessee
- f. **Subtenant** - means Sublessee
- g. **Prospective tenant** – means a firm or individual not currently a LAWA tenant
- h. **New Lease agreement** - means new leasehold premises for a prospective tenant. A lease with a firm or individual not currently a LAWA tenant.
- i. **Additional Lease agreement** - means new leasehold premises for a current tenant
- j. **Renewal Lease** - means same leasehold premises for a current tenant
- k. **Amendment** - means modified terms on same leasehold premises for a current tenant
- l. **Public Lease** - means a lease of LAWA property

## **2. New Definitions**

- a. **“CRP Questionnaire”** means the set of questions developed by Procurement Services Division (PSD) that will assist LAWA in determining a prospective tenant'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 leases, 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.
- b. **“CRP Pledge of Compliance”** means the CRP Pledge developed by the PSD. The CRP Rules and Regulations may be updated from time to time by the PSD. The CRP Pledge shall require contractors to sign under penalty of perjury that the Tenant will:

- (1) Comply with all applicable Federal, State, and local laws that apply to the 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) Notify LAWA within thirty (30) calendar days after receiving notification that any government agency has initiated an investigation that may result in a finding that the Tenant is not in compliance with subparagraph 2(b)(1).
- (3) Notify LAWA within thirty (30) calendar days of all findings by a government agency or court of competent jurisdiction that the Tenant has violated subparagraph 2(b) (1).
- (4) Ensure that Subtenants occupying space through any Sublease in connection with a LAWA lease agreement shall complete and sign a Pledge of Compliance attesting under penalty of perjury to compliance with paragraphs 2(b)(1) through (3). To submit to LAWA the completed Pledges.
- (5) Notify LAWA within thirty (30) days of becoming aware of an investigation, violation or finding of any applicable Federal, State, or local law involving any Subtenant(s) in the LAWA lease agreement.
- (6) 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.

## **B. SUBMISSION OF CRP QUESTIONNAIRES**

1. **Prospective Tenants** are required to submit a completed and signed CRP Questionnaire for determination of responsibility prior to award of the lease.
2. **Current Tenants** : The requirement to submit a CRP Questionnaire is not applicable to current tenant. See Section D(2)(a)
3. **Subtenants**: The requirement to submit a CRP Questionnaire is not applicable to subtenants. See Section D(2)(b)

## **C. LAWA REVIEW OF SUBMITTED CRP QUESTIONNAIRES – APPLIES TO PROSPECTIVE TENANTS ONLY.**

### **1. Posting of CRP Questionnaires and Subtenant Lists:**

**Prospective Tenants:** The Requesting LAWA Division will forward to PSD the completed CRP Questionnaires and Subtenant list(s), if any, submitted by the prospective tenants to make available for public review and comment for a minimum of fourteen (14) calendar days prior to the award of the lease.

**Current Tenants:** The requirement to submit a CRP Questionnaire is not applicable to current tenants. Subtenants of current tenants are listed on the LAWA website.

## **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 tenant for clarification or additional documentation. Failure to respond to these requests within the specified time may render the tenant non-responsible and disqualified.
- c. PSD will report its findings and determination to the Requesting LAWA Division.
- d. No lease award will be made by LAWA until after the CRP review and determination has been made.
- e. The CRP Questionnaire of the prospective tenant awarded the lease will be retained by PSD. The CRP Questionnaires for the prospective tenants not awarded the lease will also be retained by PSD.

## **3. Claims Resulting from Public Review and Comments**

### **Prospective Tenants/Subtenants:**

- a. Claims regarding a tenant/subtenant's responsibility must be submitted to PSD in writing. However, PSD may investigate a claim regarding a tenant/subtenant's responsibility, whether or not it is submitted in writing.
- b. If PSD receives information which calls into question a tenant/subtenant's responsibility, and the information was received **before** the lease/sublease has been executed, PSD shall:
  - (1) Notify the Requesting Division in writing that no lease/sublease shall be awarded 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 Division in writing of the results of the investigation.
  - (4) Findings from the PSD investigation received by the Requesting Division will be considered by the Requesting Division as part of the determination of the tenant/subtenant's responsibility.

**Current Tenants/Subtenants:**

- a. Claims regarding a tenant/subtenant's responsibility must be submitted to PSD in writing. However, PSD may investigate a claim regarding a tenant/subtenant's responsibility, whether or not it is submitted in writing.
- b. If PSD receives written information that calls into question a current tenant/subtenant's responsibility, PSD shall investigate the matter as required in Section G, LAWA Investigation.

**D. AWARD AND EXECUTION OF LEASES**

**1. Determination of Responsibility and Award of Lease**

**Prospective Tenants/Subtenants:**

- a. PSD shall determine whether a tenant/subtenant is a responsible tenant/subtenant with the necessary quality, fitness and capacity to comply with the terms of the 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. Board may award and Executive Director may execute a lease with a prospective tenant only if:
  - (1) The tenant's CRP Questionnaire, and Subtenant'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 tenant is not being investigated pursuant to the CRP;
  - (3) The tenant has not been found to be a non-responsible contractor pursuant to the CRP;
  - (4) The tenant does not appear on any City list of debarred bidders or contractors; and
  - (5) The tenant has met all other applicable City requirements.

**Current Tenants/Subtenants:**

- a. PSD shall determine whether a tenant/subtenant is a responsible tenant/subtenant with the necessary quality, fitness and capacity to comply with the terms of the lease by considering the following:

- (1) Completeness and accuracy of any information received from the public;
- (2) Information and documentation from PSD's own investigation; and
- (3) Information that may be available from any compliance or regulatory governmental agency.

## **2. Submission of Pledge of Compliance**

### **Prospective and Current Tenants:**

- a. Unless otherwise exempt from the CRP, all prospective and current tenants/subtenants 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 tenant/subtenant non-compliant with the terms of the lease and subject to sanctions.

### **Subtenants:**

- b. Within ten (10) calendar days of execution of a sublease, the tenant shall submit to LAWA a signed CRP Pledge of Compliance from each subtenant listed as occupying space on the leasehold premises.

## **3. Subtenant Responsibility**

- a. Tenants shall ensure that their subtenants meet the criteria for responsibility set forth in the CRP and these Rules and Regulations unless the sublease is not subject to the CRP.
- b. Tenants shall ensure that subtenants occupying space on the LAWA leasehold premises shall complete and submit a signed CRP Pledge of Compliance.
- c. Tenants shall not use in any capacity any subtenant that has been determined or found to be a non-responsible contractor by LAWA or the City.
- d. Subject to approval by the LAWA Requesting Division, tenants may substitute a non-responsible subcontractor with another subtenant.

## **4. Execution of Contracts**

### **Prospective Tenants:**

- a. Unless exempt from the CRP, all lease agreements subject to the CRP shall contain language obligating the contractor to comply with the CRP.
- b. No lease agreement may be executed unless:



- (1) The prospective tenant's CRP Questionnaire, unless otherwise exempt, has been made available for public review for at least fourteen (14) calendar days
- (2) The tenant has submitted a signed Pledge of Compliance with the CRP.
- (3) The prospective tenant's subtenant list, if any, has been made available for public review for at least fourteen (14) calendar days.
- (4) The prospective tenant is determined by LAWA to be a Responsible Contractor.

**Current Tenants:**

- a. Unless exempt from the CRP, all lease agreements subject to the CRP shall contain language obligating the tenant to comply with the CRP.
- b. No lease agreement may be executed unless the tenant has submitted a signed Pledge of Compliance with the CRP.

**E. LEASE AMENDMENTS**

Compliance with the CRP is required in lease amendments 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 tenant subject to the CRP because of an amendment shall submit a CRP Pledge of Compliance to LAWA before the lease amendment can be executed.
- b. Unless exempt from the CRP, all lease amendments subject to the CRP shall contain contract language obligating the contractor to comply with the CRP.

**F. TENANT NOTIFICATION OF INVESTIGATIONS AND UPDATE OF INFORMATION**

**1. Notification of Investigations**

**Prospective and Current Tenants shall:**

- a. Notify LAWA within thirty (30) calendar days after receiving notification that any government agency has initiated an investigation that may result in a finding that the tenant is not in compliance with any applicable Federal, State, or local law that apply to the LAWA 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 thirty (30) calendar days of receiving notice of any findings by a government agency or court of competent jurisdiction that the tenant violated any applicable Federal, State, or local law that apply to the LAWA 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.

- c. Notify LAWA within thirty (30) calendar days of becoming aware of an investigation, violation or finding of any applicable Federal, State, or local law involving the subtenants in the performance of a LAWA or City lease agreement.

## **2. Subtenant Notification of Investigations**

Tenants shall ensure that subtenants occupying the LAWA leasehold premises abide by these same updating requirements, including the requirement to:

- a. Notify LAWA within thirty (30) calendar days after receiving notification that any government agency has initiated an investigation which may result in a finding that the subtenant did not comply with any applicable Federal, State, or local law that apply to the LAWA 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 thirty (30) calendar days of all findings by a government agency or court of competent jurisdiction that the subtenant violated any applicable Federal, State, or local law that apply to the LAWA 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 Prospective Tenants only.**

- a. Updates of information contained in the prospective tenant'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 prospective tenant's fitness and ability to comply with the terms of the lease.
- b. PSD, or the Requesting Division, shall determine whether a tenant in a specific situation should have provided updated information.
  - (1) If PSD, or the Requesting Division, becomes aware of new information concerning a tenant and determines that the tenant should have provided information or updated LAWA of such information, but the tenant has not done so, PSD shall issue a written notice to the tenant requiring the tenant to submit the required information within (ten) 10 calendar days.
  - (2) If PSD or the Requesting Division becomes aware of new information concerning a subtenant and determines that the subtenant should have provided information or updated LAWA of such information, but the subtenant has not done so, PSD shall issue a written notice to the tenant requiring the subtenant to submit the required information within (ten) 10 calendar days.

- c. Tenant'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 lease agreement, and LAWA may invoke remedies set forth in Section J of these Rules and Regulations
4. **Submission of CRP Questionnaires and Updates of CRP Questionnaire Is Not Applicable to Current Tenants and Subtenants:** The requirement that tenants submit to LAWA CRP Questionnaires and updates to the CRP Questionnaire responses does not apply to current tenants and subtenants.

## **G. LAWA INVESTIGATION**

1. **Reporting of Alleged Violations:** Claims regarding a tenant/subtenant's responsibility must be submitted to PSD in writing. However, PSD may investigate a claim regarding a tenant/subtenant's responsibility, whether or not it is submitted in writing.
2. **Process:**
  - a. Upon receipt of a complaint or upon initiation of an investigation, PSD shall notify the Requesting Division and the tenant in writing that an investigation has been initiated.
  - b. PSD shall collect necessary facts and documentation from the complainant(s). To the extent permissible, PSD shall maintain the identity of the complainant, if any, confidential.
  - c. PSD shall issue a "Notice to Respond" to the tenant summarizing the facts of the investigation.
  - d. The tenant shall cooperate fully and respond to LAWA's request for information within ten (10) working days from the date of the Notice to Respond.
  - e. A tenant's failure to cooperate or respond to the Notice to Respond will be deemed conclusive admission that the tenant/subtenant is a non-responsible contractor/subcontractor and LAWA may initiate a hearing as set forth in Section I of these Rules and Regulations.

Where the Subtenant is the alleged entity, the tenant shall gather the necessary information and respond to LAWA's request for information.

- f. Upon completion of the investigation, PSD shall prepare a written report of the findings and notify the Requesting Division, the tenant, and complainant(s), if applicable, of the results.

### 3. Results of Investigation

#### Prospective Tenants

- a. When an investigation is completed **before** the lease is awarded, PSD shall notify the Requesting Division of the results, and Requesting Division will consider the information as part of the determination of a tenant's responsibility.
  - (1) If the tenant is found non-responsible, PSD shall notify the tenant, and the Requesting Division, of the proposed determination of non-responsibility and provide an opportunity for a hearing as set forth in Section I of these Rules and Regulations.
  - (2) If the tenant fails to exercise the right to a hearing within ten (10) working days of the date of the notice of the proposed determination of non-responsibility, the tenant shall be deemed to waive the right to a hearing. PSD may proceed to declare the tenant a non-responsible contractor without a hearing and LAWA may invoke remedies set forth in Section J of these Rules and Regulations.

#### Current Tenants

- b. When an investigation is completed **after** the execution of a contract:
  - (1) If violations of the CRP are found, PSD shall notify the Requesting Division and tenant of the violation and require the tenant to submit an explanation and information on the status of the violation within (ten)10 calendar days.
  - (2) After review of the information regarding the violation, PSD may:
    - (i) Proceed to declare the tenant a non-responsible contractor and LAWA may invoke remedies as set forth in Section J of these Rules and Regulations; or
    - (ii) Declare the tenant a responsible contractor.
  - (3) If the tenant fails to provide information regarding the violation as required, PSD shall notify the Requesting Division and may:
    - (i) Proceed to declare the tenant a non-responsible contractor and LAWA may invoke remedies as set forth in Section J of these Rules and Regulations.

## H. VIOLATIONS OF THE CRP OR ITS RULES AND REGULATIONS

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

2. A tenant/subtenant will be considered in violation of the CRP and sanctioned if the tenant/subtenant:
  - a. Does not submit required CRP documents
  - b. Submits incomplete, inaccurate, or unsigned CRP documents, or
  - c. Does not cooperate with PSD during its investigation, and/or fails to respond to PSD's Notice to Respond within the time allowed, or
  - d. Is determined by LAWA to be a non-responsible contractor/subcontractor after a review of the CRP documents, supportive documentation and/or public comments.
3. If violations of the CRP are found, PSD shall notify the Requesting Division and the tenant of the violation and require the tenant to submit an explanation and information on the status of the violation within 10 calendar days.
4. After review of the information regarding the violation, PSD may:
  - a. Proceed to declare the tenant a non-responsible contractor and LAWA may invoke remedies as set forth in Section J of these Rules and Regulations; or
  - b. Declare the tenant a responsible contractor.
5. If the tenant fails to provide information regarding the violation as required, PSD shall notify the Requesting Division and may:
  - a. Proceed to declare the tenant a non-responsible contractor and LAWA may invoke remedies as set forth in Section J of these Rules and Regulations.

#### **I. NON-RESPONSIBILITY HEARING**

1. PSD, after consultation with the City Attorney, shall initiate the process of declaring a tenant as a non-responsible contractor.
2. Before a tenant may be declared non-responsible, PSD shall notify the tenant, and the Requesting Division, of the proposed determination of non-responsibility and provide with an opportunity for a hearing.
3. PSD shall administer a procedure for the non-responsibility hearing which, at minimum, must include the following:
  - a. The tenant shall be provided with a written Notice that LAWA intends to declare the tenant a non-responsible contractor.
  - b. The Notice shall provide the tenant with the following information:
    - (1) That LAWA intends to declare the tenant a non-responsible contractor.
    - (2) A summary of the information upon which LAWA is relying upon.

- (3) That the tenant has a right to respond to the information by requesting a hearing to rebut adverse information and to present evidence of the necessary quality, fitness and capacity to comply with the terms of the lease required under the lease agreement or for future lease agreements.
  - (4) That the tenant shall exercise the right to a hearing by submitting to PSD a written request for a hearing within (ten) 10 working days of the date of the notice.
  - (5) That failure to submit a written request for hearing within the required time frame shall be considered a waiver of the right to a hearing that allows LAWA to proceed with the determination of non-responsibility.
4. If the tenant fails to exercise the right to a hearing within ten (10) working days of the date of the Notice of the proposed determination of non-responsibility, the tenant shall be deemed to waive the right to a hearing. PSD may proceed to declare the tenant a non-responsible contractor without a hearing and LAWA may invoke remedies as set forth in Section J of these Rules and Regulations.
5. If the tenant submits a written request for a hearing, the hearing may be held with the head of PSD, Requesting Division, City Attorney and/or their respective designees. LAWA may determine that the tenant:
  - a. Does not possess the necessary quality, fitness, or capacity to comply with the terms of the lease, should be declared a non-responsible contractor, and invoke remedies as set forth in Section J of these Rules and Regulations; or
  - b. Should be declared a responsible contractor.
6. LAWA's determination shall be final and constitute exhaustion of administrative remedies.
7. PSD shall provide LAWA's written final decision to the tenant and to the Requesting Division. If the tenant is declared to be non-responsible, a copy of the final decision shall also be provided to the City Administrative Officer.

## **J. NON-RESPONSIBILITY SANCTIONS**

### **Sanctions for Airline Tenants:**

Airline tenants that do not comply with CRP requirements and/or are determined non-responsible by LAWA will be declared to have a material breach of the lease agreement. LAWA may exercise its legal remedies thereunder, which are to include, but not limited to:

1. Non-issuance of a successor ACOP, paying landing fees at the higher rate of non-permitted carriers;
2. Losses of exclusive, preferential and/or historical gate assignments;
3. Termination of the lease agreement.

**Sanctions for Non-Airline Tenants:**

1. **Prospective** tenants that do not comply with CRP requirements and/or are determined non-responsible by LAWA will be disqualified and will not be awarded a lease agreement.
2. **Current** tenants that do not comply with CRP requirements and/or are determined non-responsible will be declared to have a material breach of the lease agreement. LAWA may exercise its legal remedies thereunder, which are to include, but not limited to the termination of the lease agreement.

Such tenant shall not perform any work or occupy any leasehold premises in the proposed lease, whether as a Master tenant, a subtenant, 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 tenant as a non-responsible contractor, PSD shall provide the Requesting Division and the tenant with a written notice summarizing the findings and applicable sanctions.
4. PSD shall maintain a listing of tenants/subtenants who have been found non-responsible by LAWA pursuant to the CRP.

**K. EXEMPTIONS**

1. **Categorical Exemption:** The following types of lease agreements are categorically exempt from the CRP and these Rules and Regulations:
  - a. Lease agreements 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 status.
  - b. Lease agreements wherein LAWA is the Lessee
  - c. LAWA permits, certificates, license agreements
  - d. Lease agreements for the purpose of re-setting the lease rates or other rates and charges for City facilities covered in lease agreements
  - e. Lease agreements wherein LAWA buys/sells/exchanges real estate or when LAWA conveys or receives easements rights(a real estate interest) in land
2. **Board approval required for CRP Exemptions:** The following types of lease agreements are exempt from the CRP and these Rules and Regulations when the Board of Airport Commissioners makes a finding that the lease agreement meets any of the following conditions:

- a. Lease agreements awarded on the basis of exigent circumstances whenever Board finds that LAWA would suffer a financial loss or LAWA operations would be adversely impacted.
- b. Lease agreements entered into during time of war or national, state or local emergency.

**L. EFFECTIVE DATE OF RULES AND REGULATIONS**

1. The CRP and these Rules and Regulations apply to Lease agreements **issued** after the City Attorney has approved these Rules and Regulations, the CRP Pledge of Compliance, and the CRP Questionnaire.
2. The CRP and these Rules and Regulations apply to lease agreements **entered into** by LAWA after the City Attorney has approved these Rules and Regulations, the CRP Pledge of Compliance, and the CRP Questionnaire.
3. Leases amended after these Rules and Regulations are approved by the City Attorney 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 or 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 I

First Source Hiring Program

## **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.

VII. 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.

VIII. 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.