



**DEPARTMENT OF AIRPORTS**

**(DRAFT) AGREEMENT FOR CENTRALIZED RECEIVING  
AND DISTRIBUTION CENTER  
LOGISTICS MANAGEMENT SERVICES**

**(NAME OF CONTRACTOR)**

**SACRAMENTO INTERNATIONAL AIRPORT**

**AGREEMENT FOR CENTRALIZED RECEIVING  
AND DISTRIBUTION FACILITY  
LOGISTICS MANAGEMENT SERVICES**

**Table of Contents**

	Page
<b>ARTICLE 1 DEFINITIONS .....</b>	<b>3</b>
1.01 AGREEMENT YEAR.....	3
1.02 AIRPORT .....	3
1.03 AIRSIDE .....	3
1.04 BUILDING .....	3
1.05 CENTRALIZED RECEIVING AND DISTRIBUTION CENTER LOGISTICS MANAGEMENT SERVICES .....	3
1.06 COMMENCEMENT DATE .....	3
1.07 CONCESSION.....	3
1.08 CONSIDERATION.....	4
1.09 COUNTY.....	4
1.10 DATE OF BENEFICIAL OCCUPANCY .....	4
1.11 DIRECTOR .....	4
1.12 DOT.....	4
1.13 FAA .....	4
1.14 FORCE MAJEURE EVENT .....	4
1.15 IMPROVEMENTS .....	4
1.16 PREMISES .....	5
1.17 PROJECT .....	5
1.18 RISK MANAGER .....	5
1.19 SCOPE OF WORK .....	5
1.20 SIGN .....	5
1.21 STATE.....	5
1.22 TRADE FIXTURES .....	5
1.23 TSA .....	6
<b>ARTICLE 2 SPECIAL CONDITIONS.....</b>	<b>7</b>
2.01 TERM.....	7
<i>A. COMMENCEMENT DATE .....</i>	<i>7</i>
<i>B. OPTIONS TO EXTEND TERM.....</i>	<i>7</i>
2.02 ASSIGNED PREMISES.....	7
2.03 USE OF THE ASSIGNED PREMISES .....	8
<i>A. AUTHORIZED USE(S) .....</i>	<i>8</i>
<i>B. LIMITATIONS .....</i>	<i>8</i>
2.04 MANAGEMENT SERVICES FEES.....	9
2.05 SECURITY DEPOSIT .....	10
2.06 ADDITIONAL FEES, CHARGES, AND RENTALS.....	10
2.07 LIQUIDATED DAMAGES FROM LATE PAYMENTS.....	11
2.08 UTILITIES .....	11
2.09 MAINTENANCE RESPONSIVITIES .....	12
<i>A. RESPONSIBILITY OF COUNTY.....</i>	<i>12</i>
<i>B. RESPONSIBILITY OF CONTRACTOR.....</i>	<i>12</i>
2.10 IMPROVEMENTS OR ALTERATIONS.....	14
2.11 INSURANCE.....	14
2.12 NOTICES.....	15

<b>ARTICLE 3 GENERAL CONDITIONS.....</b>	<b>16</b>
3.01 ACCEPTANCE OF ASSIGNED PREMISES.....	16
3.02 ACCORD AND SATISFACTION .....	16
3.03 AIR QUALITY .....	16
3.04 AMENDMENT REQUIRED BY FAA OR TSA.....	16
3.05 ASSIGNMENT AND SUBLETTING .....	16
3.06 AIRPORT PROCESSING FEE .....	17
3.07 ASSURANCES REQUIRED BY FAA .....	17
3.08 AUTHORITY OF AGREEMENT .....	17
3.09 AUTHORITY OF THE DIRECTOR .....	18
3.10 CALIFORNIA LAW .....	18
3.11 COMPLIANCE WITH CHILD, FAMILY, AND SPOUSAL SUPPORT REPORTING OBLIGATIONS.....	18
3.12 CONSENT.....	18
3.13 CONTRACT PROVISIONS REQUIRED BY FAA .....	18
3.14 COUNTERPARTS .....	19
3.15 COUNTY'S REMEDIES.....	19
3.16 CUMULATIVE REMEDIES.....	19
3.17 DAMAGE OR DESTRUCTION OF IMPROVEMENTS.....	20
A. CONTRACTOR REPAIR AND RESTORATION.....	20
B. CONDITION OF WORK.....	20
C. PAYMENT OF INSURANCE PROCEEDS .....	20
D. DEFICIENCY.....	21
E. FAILURE TO COMMENCE REPAIRS .....	21
F. UNINSURABLE RISK .....	21
3.18 EARLY TERMINATION BY COUNTY .....	21
3.19 EARLY TERMINATION BY CONTRACTOR.....	22
3.20 ENTIRE AGREEMENT .....	23
3.21 ENVIRONMENTAL REQUIREMENTS .....	23
A. CONTRACTOR'S COMPLIANCE WITH ENVIRONMENTAL LAWS .....	23
B. HAZARDOUS MATERIAL STORAGE PERMIT .....	23
C. DIRECTOR'S CONSENT REQUIRED .....	24
D. INDEMNIFICATION BY CONTRACTOR .....	24
E. NOTICES .....	24
F. RIGHT OF ENTRY .....	25
G. ENVIRONMENTAL AUDIT.....	25
H. HAZARDOUS MATERIALS SPILL RELEASE REPORTING AND CLEANUP POLICIES .....	25
3.22 FORCE MAJEURE .....	26
3.23 HEADINGS.....	26
3.24 INDEMNIFICATION .....	26
3.25 INDEPENDENT CONTRACTOR.....	27
3.26 INDUSTRIAL WASTE DISPOSAL.....	27
3.27 INTERPRETATION OF AGREEMENT.....	27
3.28 INVALID PROVISIONS .....	27
3.29 IMPROVEMENTS BY CONTRACTOR.....	28
A. GENERAL.....	28
B. CONCEPTUAL REVIEW .....	29
C. PRELIMINARY PLANS.....	29
D. REVIEW OF AND COMMENT ON PRELIMINARY PLANS .....	29
E. FINAL PLANS .....	30
F. REVIEW AND APPROVAL OF FINAL PLANS .....	30
G. MODIFICATION OF FINAL PLANS.....	30
H. ENVIRONMENTAL REVIEW AND APPROVAL.....	30
I. NOTICE TO PROCEED .....	30

J.	DUTY TO CONSTRUCT .....	32
K.	CONSTRUCTION TIMELINE.....	33
L.	NOTICE OF COMPLETION.....	33
M.	AS-CONSTRUCTED/RECORD DRAWINGS .....	33
N.	REMOVAL OF UNAPPROVED IMPROVEMENTS.....	33
O.	LIQUIDATED DAMAGES FOR FAILURE TO TIMELY COMPLETE THE PROJECT .....	34
P.	CERTIFICATION OF FACILITY BUILD-OUT INVESTMENT .....	34
Q.	TITLE TO TENANT IMPROVEMENTS.....	34
3.30	LICENSES AND PERMITS .....	34
3.31	NEGATION OF PARTNERSHIP .....	34
3.32	NOISE CONTROL.....	35
3.33	NONDISCRIMINATION .....	35
3.34	NONEXCLUSIVE RIGHTS.....	35
3.35	NONWAIVER OF RIGHTS .....	36
3.36	NOTICE OF CLAIMS AND SUIT.....	36
3.37	NO WARRANTY .....	36
3.38	NUISANCE AND WASTE.....	36
3.39	OPERATIONAL AUDIT .....	37
3.40	PEACEABLE USE AND ENJOYMENT .....	37
3.41	PROHIBITION OF LIENS.....	37
3.42	RELEASE OF LIABILITY .....	37
3.43	REPORTS .....	37
3.44	REMOVAL OF CONTRACTOR'S PROPERTY .....	38
3.45	RESTRICTIONS AND REGULATIONS .....	38
3.46	RIGHT OF ENTRY .....	38
3.47	RISK REDUCTION .....	38
3.48	SECURITY .....	39
3.49	SIGNS .....	39
3.50	STATEMENT REGARDING A CERTIFIED ACCESS SPECIALIST .....	39
3.51	SUCCESSORS AND ASSIGNS .....	40
3.52	SURRENDER OF ASSIGNED PREMISES .....	40
3.53	TAXES .....	40
	A. POSSESSORY INTEREST AND PROPERTY TAXATION .....	40
	B. RIGHT TO CONTEST TAXES .....	40
3.54	TIME IS OF THE ESSENCE.....	41
3.55	TITLE TO THE ASSIGNED PREMISES .....	41
3.56	VEHICULAR AND EQUIPMENT PARKING.....	41
3.57	EXECUTION OF AGREEMENT.....	42

**EXHIBITS:**

EXHIBIT A:	ASSIGNED PREMISES
EXHIBIT B:	SCOPE OF WORK
EXHIBIT C:	SECURITY PLAN
EXHIBIT D:	COMPENSATION
EXHIBIT E:	INSURANCE REQUIREMENTS
EXHIBIT F:	FAA ASSURANCES
EXHIBIT G:	FAA CONTRACT PROVISIONS
EXHIBIT H:	IMPROVEMENTS

**AGREEMENT FOR CENTRALIZED RECEIVING AND  
DISTRIBUTION CENTER LOGISTICS MANAGEMENT SERVICES**

**SACRAMENTO INTERNATIONAL AIRPORT**

**THIS AGREEMENT** is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by and between the COUNTY OF SACRAMENTO, (County), a political subdivision of the State of California and \_\_\_\_\_, (Contractor), a (insert state of incorporation) corporation authorized to do business in the State of California. Each of the County and Contractor are sometimes referred to herein as a "Party" or collectively as the "Parties".

**WHEREAS**, County owns the Sacramento International Airport (Airport), located in Sacramento County, California, and operates the Airport through its Department of Airports (Department); and

**WHEREAS**, County desires to contract with a qualified centralized receiving and distribution facility operator to develop, manage, and operate a Centralized Receiving and Distribution Center (CRDC) for concessions in the terminals at Airport; and

**WHEREAS**, pursuant to government Code Section 31000, the County is authorized to contract for specialized services with persons specially trained, experienced, and competent to perform such services; and

**WHEREAS**, the services described herein are not services that have been provided by County employees in the past and are therefore not subject to the requirements of County Charter Section 71-J; and

**WHEREAS**, on \_\_\_\_\_, 2019, the Department issued a Request for Proposals (RFP) for CRDC Logistics Management Services; and

**WHEREAS**, in response to the RFP, Contractor has submitted a proposal dated \_\_\_\_\_ (Proposal) and has represented to the County that it is an experienced, competent, and financially sound CRDC operator duly qualified to create and operate the CRDC, and has proposed such services pursuant to its Proposal; and

**WHEREAS**, based upon the substance of Contractor's Proposal, which is incorporated herein by reference, the County has selected Contractor as a non-exclusive provider of CRDC Logistics Management Services at the Airport subject to the terms and conditions of this Agreement; and

**WHEREAS**, via Resolution #20\_\_-\_\_\_\_, the Sacramento County Board of Supervisors authorized the Director of Airports (Director) to negotiate and execute the Agreement with Contractor.

**NOW, THEREFORE**, for and in consideration of the promises, terms, conditions, and covenants set forth herein, County and Contractor hereby mutually agree as follows:

## **Article 1**

### **Definitions**

As used herein, the following words and phrases shall have the meanings set forth below:

#### **1.01 Agreement Year**

"Agreement Year" shall mean a period of twelve (12) full consecutive months commencing the Commencement Date of this Agreement, as set forth in Section 2.01.

#### **1.02 Airport**

"Airport" shall mean Sacramento International Airport operated by the County as a public airport.

#### **1.03 Airside**

"Airside" shall mean those areas of the Airport, beyond security checks and passport and customs control, which are used by aircraft for loading and unloading and takeoffs and landings.

#### **1.04 Building**

"Building" shall mean the structure in which the Assigned Premises is located.

#### **1.05 Centralized Receiving and Distribution Center Logistics Management Services**

"Centralized Receiving and Distribution Center Logistics Management Services" means the furnishing of all required labor, supervision, equipment and supplies, and the performance of the tasks necessary to complete the Scope of Work of this Agreement and operate the CRDC in the most efficient manner.

#### **1.06 Commencement Date**

"Commencement Date" shall be the date upon which this Agreement shall be effective.

#### **1.07 Concession**

"Concession" means the Airport tenant or lessee whose business is non-airline related, and who sells goods and/or services for a profit.

### **1.08 Consideration**

“Consideration” means the Management Services Fees discussed in Section 2.04 of this Agreement.

### **1.09 County**

“County” means County of Sacramento, a political subdivision of the State of California, as represented by the Sacramento County Board of Supervisors.

### **1.10 Date of Beneficial Occupancy**

“Date of Beneficial Occupancy” means the date on which Contractor is able to occupy the Assigned Premises and commence CRDC operations.

### **1.11 Director**

“Director” shall mean the Director of the Sacramento County Department of Airports and his or her authorized representatives.

### **1.12 DOT**

“DOT” shall mean the United States Department of Transportation, and any federal agency succeeding to its jurisdiction.

### **1.13 FAA**

“FAA” shall mean the Federal Aviation Administration of the United States government, and any federal agency succeeding to its jurisdiction.

### **1.14 Force Majeure Event**

“Force Majeure Event” means any act, event, cause, or condition that is beyond the reasonable control of the Party hereto which is affected thereby, that is not caused by such Party’s fault or negligence, and that by the exercise of reasonable diligence such Party is unable to overcome or prevent, including, but not limited to: acts of God, war, civil commotion, embargoes, strikes, labor dispute, boycott, epidemic, embargo, act of a public enemy, fires, cyclones, droughts or floods, earthquakes, emergencies (other than those caused by the negligence or willful misconduct of the Party claiming the Force Majeure Event).

### **1.15 Improvements**

“Improvements” shall include any modifications or additions to the Assigned Premises and all structures, fixtures, and equipment affixed thereto in such a manner that they cannot be readily removed without irreparable damage to

the remainder of the improvements and without substantially changing the character of the Assigned Premises.

### **1.16 Premises**

“Premises” shall mean the areas at Airport, including the Assigned Premises described in Exhibit A, attached hereto and incorporated herein, in which Contractor is granted the right to operate in accordance with the terms and conditions of this Agreement, together with any additional areas at Airport in which Contractor may be granted such rights.

### **1.17 Project**

“Project” means any improvements to the Assigned Premises including but not limited to the construction of the Improvements as described in Section 3.29 of this Agreement.

### **1.18 Risk Manager**

“Risk Manager” shall mean the Risk and Loss Control Division Manager of the County of Sacramento and authorized representatives.

### **1.19 Scope of Work**

“Scope of Work” shall mean the standards set by County for the operation of Contractor’s business.

### **1.20 Sign**

“Sign” shall mean any advertising sign, billboard, identification sign or symbol, or other similar device, regardless of content.

### **1.21 State**

“State” shall mean the State of California, U.S.A.

### **1.22 Trade Fixtures**

“Trade Fixtures” shall mean, but shall not be limited to: 1) any signs (electrical or otherwise) used to identify Contractor's business; 2) all machinery and equipment used in connection with Contractor's required or permitted activities pursuant to this Agreement, whether or not such machinery or equipment is bolted or otherwise attached to the Assigned Premises; and 3) all other miscellaneous office equipment, furnishings, and personal property.

### **1.23 TSA**

“TSA” shall mean the Transportation Security Administration, and any federal agency succeeding to its jurisdiction.

**Article 2**  
**Special Conditions**

**2.01 Term**

**A. Commencement Date**

The term of this Agreement shall commence upon execution of the Agreement and end on the last day of the month that completes five (5) full years from the Date of Beneficial Occupancy (Base Term).

Whenever the word "Term" is used hereafter in this Agreement it shall mean the Term as set forth in this Section.

**B. Options to Extend Term**

This Agreement may be renewed on the same terms and conditions hereunder for two (2) one-year (1-year) periods provided: 1) Contractor is not in default of any terms of this Agreement; 2) Contractor issues written notice to Department at least sixty (60) days prior to the Agreement's expiration or prior term renewal; and 3) Director or designee accepts the renewal in writing. Such renewals shall be memorialized by formal amendment to this Agreement, signed by both Parties. Director shall have authority to execute the amendment(s) on behalf of County up to the limits of the "Maximum Total Payment Amount" set forth on Exhibit D hereof. If such renewal options are exercised by Contractor and approved by County, this Agreement will have a final termination date of \_\_\_\_\_, \_\_\_\_.

**2.02 Assigned Premises**

The Assigned Premises is shown on Exhibit A. By mutual agreement of the Parties, the Assigned Premises may be modified from time to time throughout the Term of the Agreement. If modification of the Assigned Premises is required, the Director is authorized to amend this Agreement.

Contractor accepts the Assigned Premises as specified herein. The Premises are assigned in "as is" condition, without any expressed or implied representation or warranties of any kind whatsoever unless specifically set forth in this Agreement.

## **2.03 Use of the Assigned Premises**

### **A. Authorized Use(s)**

Subject to the limitations set forth in Section 2.03B and elsewhere in this Agreement, Contractor may with approval from the Director or County use or perform on the Assigned Premises and access areas identified on Exhibit A, for any or all of the following:

- (1) The right to install appropriate Improvements on the Assigned Premises provided that all design and installation shall have the prior written approval of the Department; and
- (2) The use, in common with others so authorized, of the common-use areas of the Airport and all the facilities, equipment, improvements, and services pertaining thereto which are now or may hereafter be provided by Department for any and all purposes incidental and related to the conduct of Contractor's Scope of Work set forth on Exhibit B to this Agreement.

Contractor shall solely utilize the Assigned Premises to provide services in the amount, type, and manner described in the Scope of Work shown on Exhibit B, attached hereto and incorporated herein.

Contractor, its employees, agents, sub-contractors, guests, invitees, trainees, suppliers of materials, furnishers of services and any authorized representatives shall have rights of ingress and egress with respect to the following areas: 1) common use areas of the Airport; 2) the Assigned Premises; and 3) any specific access to the Assigned Premises as identified on Exhibit A.

Contractor's use of the Assigned Premises shall at all times be substantially in accordance with and comply with all applicable federal, State, and local laws, regulations, ordinances, and Airport Rules and Regulations.

Lessee shall adhere to the Security Plan approved by the Department as set forth on Exhibit C and attached hereto and incorporated herein. The Security Plan may be modified by the Director or TSA to comply with Airport security requirements.

### **B. Limitations**

Contractor shall use the Assigned Premises in accordance with the following limitations and all other applicable terms, promises, conditions, and covenants contained herein. Contractor shall not:

- (1) Solicit, sell, or advertise goods or services that are not authorized by the Director under this Agreement;

- (2) In any way obstruct or interfere with the rights or injure, or annoy others at the Airport and shall coordinate trucking and other operational activities, including but not limited to operation of Contractor's equipment with other tenants in the vicinity so Contractor's activities do not impact other tenant's operational requirements;
- (3) Use or allow the Airport to be used for any improper, immoral, or unlawful purpose;
- (4) Obstruct the sidewalks, roadways or passageways adjacent to the Assigned Premises or elsewhere on the Airport unless approved in advance, in writing, by the Director;
- (5) Use retardants of any kind, at any time, for any reason, anywhere on any landscape or ground area;
- (6) Solicit or distribute materials on the Airport in any manner;
- (7) Store pallets on the paved driveway unless approved in writing, in advance, by the Director; and
- (8) Allow any paved driveway or ground area to be used for storing any vehicles not associated with Contractor's authorized uses.

#### **2.04 Management Services Fees**

Commencing the first day that concession goods are received at the CRDC, County shall pay Management Services Fees to Contractor for completion of the Scope of Work of this Agreement. The Annual Management Services Fee for each year of the Term shall be as set forth on Exhibit D attached hereto and incorporated herein. Said Fee shall be paid monthly, upon demand and in arrears, in an amount equal to one-twelfth (1/12th) of the Annual Management Services Fee then applicable. In the event of any partial month, the monthly payment shall be prorated based on the number of actual days in said month. Compensation under this Agreement shall be limited to the maximum total payment amount set forth on Exhibit D.

Contractor shall submit all invoices required under this Agreement to the following address:

Sacramento County Department of Airports  
Airport Accounting  
6900 Airport Boulevard  
Sacramento, CA 95837-1109

Throughout the term of this Agreement, the Director shall notify Contractor, in writing, of any disputed billing items.

## **2.05 Security Deposit**

Within thirty (30) days of the Commencement Date, Contractor shall provide a security deposit to the Department in the amount of \$ \_\_\_\_\_, the equivalent of thirty percent (30%) of the average Annual Management Services Fee to be received by Contractor during the base term of this Agreement. Upon commencement of each 1-year option period, if exercised by County, the deposit amount shall be adjusted to add into the base term average the Annual Management Services Fee for said option year. Security deposits shall be payable to the "County of Sacramento".

Said security deposit shall be in the form of a letter of credit or a performance bond obtained from a company that has an A.M. Best's rating of no less than A:VII or has been approved by the County. Said security deposit shall be provided at Contractor's sole cost and expense. In lieu of such security deposit, Contractor may deposit with Department, in a form acceptable to the Department, an irrevocable letter of credit ("at sight" draft) from a bank acceptable to the County as security for faithful performance by Contractor as hereinabove provided.

Said security deposit shall be kept in full force throughout the Term of this Agreement to ensure the faithful performance by Contractor of all the covenants, terms and conditions of this Agreement.

Said security deposit shall continue to be retained by County as security for the timely performance by Contractor of each and every obligation of Contractor hereunder, and shall not be subject to the claim of any creditor of County or Contractor.

Within three (3) months following expiration or earlier termination of this Agreement, the amount of said security deposit, less any amounts due or owing to County by Contractor, shall be refunded/released by County to Contractor, provided, however, County shall have no obligation whatsoever to pay any interest on the amount of said security deposit to Contractor.

Within fifteen (15) calendar days following the application of said security deposit to correct any default by Contractor, or to pay any amount due or owing upon expiration or earlier termination of this Agreement, County shall provide Contractor with an accounting of such application.

## **2.06 Additional Fees, Charges, and Rentals**

Contractor shall pay to County fees, charges, and/or rentals in the event of any of the following:

- (1) If County has paid any sum or sums, or has incurred any obligation or expense, for which Contractor has agreed to pay or reimburse County, or for which contractor is otherwise responsible;

- (2) If County is required or elects to pay any sum or sums, or incur any obligation or expense, because of the failure or neglect of Contractor to perform or fulfill any of the promises, terms, conditions, or covenants required of it herein;
- (3) Pursuant to any separate permit or written agreement between the parties not contained herein; and/or
- (4) Pursuant to any ordinance, resolution, or minute order of County.

Contractor's obligation shall include all interest, cost, damages, and penalties in conjunction with such sums so paid, or expenses so incurred, by County, which may be added by County to any installment of fees, charges, and rents payable herein. Each and every part of such payment by County shall be recoverable by County in the same manner and with like remedies as if it were expressly set forth herein.

For all purposes under this Section, and in any suit, action or proceeding of any kind between the parties hereto, any receipt showing the payment of any sum or sums by County for or in connection with any work done or material furnished shall be presumed to be necessary and reasonable. In such event Contractor may submit evidence to rebut such presumption.

Contractor shall pay County pursuant to this Section within thirty (30) days following demand thereof.

## **2.07 Liquidated Damages from Late Payments**

If Contractor is in arrears for seven (7) days or more following the due date of any amount payable to the County herein, the parties acknowledge that additional clerical, accounting, and other work will be performed which would not otherwise be needed absent the late payment. In addition, because the actual charges as a result of the late payment are difficult to identify, the parties hereby agree that Contractor shall pay as a reasonable charge, liquidated damages for the late payment in the amount of eighteen percent (18%) annual percentage rate, applicable from the date such payment was due to the date of actual payment. If the maximum charge permitted by law is less than the foregoing amount, then the rate shall be such amount determined to be the maximum legal amount. This late charge will be calculated and posted on a monthly basis, and shall be prorated by the number of days in the month.

## **2.08 Utilities**

Subject to the terms of this Agreement, Contractor shall be responsible for Contractor's direct cost of utilities: electrical, water, sanitary sewer, and communications as billed by County or the utility companies. County reserves the right to determine the means by which Contractor must provide and/or pay for its utilities if the Assigned Premises is in a facility jointly used with County. Contractor

agrees that any and all charges for such services shall be paid before their delinquency. Unless due to the negligence or willful misconduct of the County, its employees, agents or Contractors, the County shall not be liable to Contractor for any interruption or curtailment of any utility service, nor shall any such interruption or curtailment constitute grounds for abatement of any applicable rent in whole or in part unless such is caused by County's negligence or willful misconduct. Contractor acknowledges that County has no authority over the utility service providers.

## **2.09 Maintenance Responsibilities**

### **A. Responsibility of County**

Throughout the Term of this Agreement, County, at its sole cost and expense, shall:

- (1) Maintain and repair the adjacent apron area, taxi lanes and airfield, as well as one or more roadways connecting the Assigned Premises to public roadway(s) off of the Airport.
- (2) Repair and patch roof, as necessary. Clean and clear gutters as necessary.
- (3) Provide structural maintenance and/or structural repair to the Assigned Premises if a County-owned facility, including exterior walls, roof, doors and foundation.
- (4) Repair and replace HVAC and other mechanical equipment servicing the Assigned Premises, if a County-owned facility, excluding any preventative maintenance that may be the responsibility of Contractor pursuant to the terms of this Agreement.
- (5) Replace facility lighting, if a County-owned facility.
- (6) Provide exterior pest control, if a County-owned facility.
- (7) Provide janitorial to common use areas of County-owned facilities such as County offices, breakrooms, and restrooms.

### **B. Responsibility of Contractor**

Except as otherwise expressly provided for in this Section, during the Term of this Agreement, Contractor shall at its sole cost and expense maintain the Assigned Premises in accordance with the terms of this Agreement and all applicable laws and regulations, whether now or hereafter enacted including, but not limited to, the following:

- (1) Maintain, repair, and perform all ordinary preventative maintenance and upkeep of the Assigned Premises. Such maintenance and repair shall include all appliances and fixtures within Assigned Premises.

- (2) Maintain, repair, and replace any improvements, alterations, or additions caused by Contractor whether Contractor has or has not obtained advance authorization from County in accordance with this Agreement.
- (3) Perform preventative maintenance of heating, ventilation, air conditioning equipment and filters.
- (4) Provide for trash/garbage collection and disposal and required recycling compliant with applicable rules and regulations.
- (5) Clean and perform all janitorial service within the Assigned Premises.
- (6) Provide interior pest control as may be necessary to maintain the Assigned Premises in a pest-free and vermin-free condition.
- (7) Maintain the Assigned Premises in compliance with local, State, and federal laws, rules and regulations applicable to the current use of the Assigned Premises at any given time during the Term of this Agreement.
- (8) In addition to County's right to enter as provided for elsewhere herein, Contractor acknowledges and accepts County's right and intent to conduct periodic, but not less frequently than annual, Maintenance Compliance Surveys (Surveys) on the Assigned Premises. Surveys shall be scheduled at a mutually convenient time for County and Contractor, following written notice by County of its intent to conduct a Survey, provided, however that such Surveys shall not unreasonably interfere with the operation of Contractor's operation of the Assigned Premises and the County shall agree to comply with Contractor's reasonable health, safety, and security protocols, that do not conflict with Airport security regulations or protocols. Surveys will focus on, but not be limited to, the condition of all Improvements for proper maintenance, building and fire code compliance and compliance with applicable laws. Contractor agrees to cooperate with County, or its authorized representative, during the Survey process and provide access to all areas of the Assigned Premises, both interior and exterior. In the event County, or its authorized agent, is not able to access all areas of the Assigned Premises during the time of the scheduled Survey, Contractor will reschedule a mutually convenient time for a follow up Survey to allow access to areas inaccessible during the initial Survey appointment, and Contractor agrees to compensate County for the personnel cost of the follow up Survey at the greater rate of: \$50 or the fully loaded rate for the County staff performing the Survey, for each hour of such follow up Survey. Refusal by Contractor to provide access to all areas of the Assigned Premises upon the terms set forth herein shall be

considered a material breach of this Agreement and grounds for termination.

- (9) County shall not be required to notify Contractor to perform any of Contractor's maintenance responsibilities hereunder; however, County shall provide Contractor a copy of any such inspection report generated and/or findings of any material or hazardous nature. However, if County gives such notice, and Contractor fails to commence and, thereafter, diligently prosecute completion of the maintenance that is called for by such notice within ten (10) days following receipt thereof, County may, at its option, itself perform, or cause to be performed, such work at Contractor's sole cost and expense. In such event, Contractor shall, upon demand, reimburse County for all costs and expense of any kind or character incurred by County in connection therewith. Such option shall be in addition to any exercise thereof and shall not be deemed to create or imply any obligation or duty whatsoever to County or to any other person

## **2.10 Improvements or Alterations**

Contractor shall pay for all services and all materials for any Department-approved alteration of, or improvement to, the Assigned Premises, and shall permit no lien or claim to be filed or prosecuted against County on account of such labor and materials furnished.

Except as provided in Section 3.29 of this Agreement, no improvements or alterations of any kind shall be erected, placed, assembled, constructed, or permitted on the Assigned Premises without prior written submittal of the proposed project to the Director. Upon review of the proposal, the Director will provide Contractor a written response and direction for the proposed project. The Director agrees and understands that time is of the essence with respect to the Improvements and, accordingly, will not unreasonably withhold, delay, or condition approval of any improvements or alterations reasonably requested by Contractor.

## **2.11 Insurance**

Throughout the Term of this Agreement, Contractor for itself and its officers, representatives, agents, employees, volunteers, sub-contractors, consultants, sub-consultants, licensees, trainees, customers, and suppliers shall maintain or cause to maintain in full force and effect the forms of insurance specified in Exhibit E attached hereto and incorporated herein by this reference. In the event Contractor does not have the required certificate(s) of insurance and/or binder(s) evidencing the proper insurance coverage, or the required insurance coverage lapses, this Agreement may immediately be terminated by the Director.

**2.12 Notices**

Notices required herein shall be in writing and served personally, sent by certified mail, return receipt requested, postage prepaid, or overnight courier.

Any notice mailed pursuant to this Section shall be deemed received by the addressee upon delivery and two (2) business days after deposit of same with an overnight courier. Either party shall have the right, by giving fifteen (15) days advance written notice to the other, to change the addressee, or address at which its notices are to be received. Until any such change is made, notices shall be addressed and delivered as follows:

**County:**

Sacramento County Department of Airports  
ATTN: Properties and Commercial Development  
6900 Airport Boulevard  
Sacramento, CA 95837

**Contractor:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

If notice is given in any other manner or at any other place, it will also be given at the place and in the manner specified above in this Section.

All notices shall be effective upon receipt and shall be deemed received upon delivery, if personally delivered.

## **Article 3**

### **General Conditions**

#### **3.01 Acceptance of Assigned Premises**

Except as otherwise set forth in this Agreement, Contractor hereby accepts the Assigned Premises in its "as-is" condition existing at the Commencement Date of the Term hereof. Taking possession of the Assigned Premises by Contractor shall be conclusive evidence that the condition thereof is satisfactory to Contractor. County makes no representation or warranty that the Assigned Premises are suitable for the uses to which Contractor shall be restricted pursuant to this Agreement.

#### **3.02 Accord and Satisfaction**

No payment by Contractor or receipt by County of a lesser amount than the fees and/or charges due to be made by Contractor herein shall be deemed to be other than on account for the fees and/or charges due, and no endorsement or statement on any check or in any letter accompanying any check or payment as fees and/or charges shall be deemed an accord and satisfaction, and County may accept such check or payment without prejudice to County's right to recover the balance of such fees and/or charges or to pursue any other remedy provided in this Agreement.

#### **3.03 Air Quality**

Contractor recognizes that the County consistently encourages Airport users to work with the County to improve air quality in the Sacramento region. Contractor agrees to exercise good faith and commercially reasonable efforts to work with the County to improve air quality in the Sacramento region.

#### **3.04 Amendment Required by FAA or TSA**

This Agreement may be amended without further consideration for the purpose of satisfying TSA or FAA requirements or any federal agency succeeding to their respective jurisdictions.

#### **3.05 Assignment and Subletting**

Contractor shall have no right to assign, mortgage, pledge, or otherwise transfer this Agreement, either voluntarily or by operation of law, in whole or in part without prior written consent of the Director. Likewise, Contractor shall not subcontract any rights authorized hereunder or lease any or all of the Assigned Premises. The foregoing notwithstanding, Contractor may, with prior written consent of the County, assign or sublet the Assigned Premises, or any part thereof: (a) to any entity controlling, controlled by, or under common control with,

Contractor, or to any corporation resulting from the merger or consolidation with Contractor; (b) to any person or entity which acquires all (or substantially all) of the assets of Contractor as a going concern; (c) to any third party doing business with Contractor or any Contractor affiliate, including vendors, consultants, contractors, service providers or joint venture partners; or (d) to an entity that will provide the same or substantially similar services on the Assigned Premises as required of Contractor herein.

### **3.06 Airport Processing Fee**

In the event that Contractor requires or requests County's review, investigation, processing, recordation, validation or any other consideration of Contractor's proposed Agreement, assignment, or other transfer of estoppel certificates, or documentation regarding Contractor's financing of its leasehold interest, as permitted by this Section, Contractor agrees that as a condition precedent to the County's review, Contractor shall reimburse County for all of County's reasonable actual costs including, but not limited to, all of County's staff labor incurred therefrom. Said costs shall include any reasonable consultant and attorney fees, all postage (both first class and express mail), other communication and reproduction fees and all materials and services used or expended in completing County's review.

Contractor shall make said reimbursement to County within thirty (30) days after County's written request is received by Contractor. County may terminate this Agreement should Contractor not reimburse the County as described in this Section within thirty (30) days of receipt of demand.

### **3.07 Assurances Required By FAA**

Contractor will, at all times during this Agreement, comply with all applicable provisions of the FAA "Airport Sponsor Assurances" (Assurances) and any subsequent revisions, updates, or amendments thereto. A copy of the current Assurances is attached as Exhibit F and incorporated herein by this reference. The provisions of Exhibit F may change during the term of this Agreement, and those changes will be incorporated into this Agreement without the necessity of a formal amendment, County is not responsible for notifying Contractor of any changes to the Assurances. Contractor is required to contact the FAA for any updates or revisions. The Assurances document is available on the FAA's website. [Please see [http://www.faa.gov/airports/aip/grant\\_assurances/media/airport-sponsor-assurances-aip.pdf](http://www.faa.gov/airports/aip/grant_assurances/media/airport-sponsor-assurances-aip.pdf)]

### **3.08 Authority of Agreement**

Contractor warrants and represents that it has the right, power, and legal capacity to enter into and perform its obligations under this Agreement, and no approvals or consents of any persons are necessary in connection with it. The execution, delivery, and performance of this Agreement by the undersigned Contractor representatives have been duly authorized by all necessary corporate

action of Contractor, and this Agreement will constitute a legal, valid, and binding obligation of Contractor, enforceable in accordance with its terms.

### **3.09 Authority of the Director**

The Director shall administer this Agreement on behalf of County. Unless otherwise provided herein or required by applicable law, the Director shall be vested with all rights, powers, and duties of County herein. With respect to matters herein subject to the approval, satisfaction, or discretion of County or the Director, the decision of the Director in such matters shall be final.

### **3.10 California Law**

This Agreement shall be interpreted and enforced in accordance with the statutory and decisional law of the State of California. In the event of a dispute between the parties as to the language of this Agreement or the construction or meaning of any term hereof, this Agreement shall be deemed to have been drafted by the parties in equal parts so that no presumptions or inferences concerning its terms or interpretation may be construed against any party to this Agreement.

Any litigation filed by Contractor or County against the other regarding the terms of this Agreement, performance of a party's obligations under this Agreement, or any other reason related in any way to this Agreement, shall be filed in a federal or State court of competent jurisdiction located in Sacramento, California.

### **3.11 Compliance with Child, Family, and Spousal Support Reporting Obligations**

Contractor's failure to comply with State and federal child, family, and spousal support reporting requirements regarding Contractor's employees or failure to implement lawfully served wage and earnings assignment orders or notices of assignment relating to child, family, and spousal support obligations shall constitute a default under this Agreement. Contractor's failure to cure such default within ninety (90) days of notice by Department shall be grounds for termination of this Agreement.

### **3.12 Consent**

Whenever the consent or approval of either party hereto is required or authorized hereunder, such consent or approval shall not be unreasonably withheld, unreasonably conditioned, or unreasonably delayed.

### **3.13 Contract Provisions Required By FAA**

Contractor will, at all times during this Agreement, comply with all applicable provisions of the FAA Contract Provisions (Provisions) and any subsequent revisions, updates, or amendments thereto. A copy of the current Provisions are

attached as Exhibit G and incorporated herein by this reference. The Provisions may change during the term of this Agreement, and those changes will be incorporated into this Agreement without the necessity of a formal amendment. County is not responsible for notifying Contractor of any changes to the Provisions. Contractor is required to contract the FAA for any updates or revisions.

### **3.14 Counterparts**

This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, by all of which, together, shall constitute one and the same instrument.

### **3.15 County's Remedies**

Pursuant to Section 1951.2 of the California Civil Code:

(a) In the event that Contractor breaches this Agreement and abandons the Assigned Premises before the end of the Term hereof, or if Contractor's right to possession is terminated by County because of a breach of this Agreement, this Agreement terminates. Upon such termination, the County may recover from Contractor any other amount necessary to compensate County for all the detriment proximately caused by Contractor's failure to perform its obligations under this Agreement, or which in the ordinary course of things would be likely to result therefrom, exclusive of any consequential damages.

(b) Efforts by County to mitigate the damages caused by Contractor's breach of this Agreement do not waive County's right to recover damages pursuant to said Section 1951.2 and this Section.

(c) Nothing in this Section affects the right of County under this Agreement to indemnification for liability arising prior to the termination of this Agreement for personal injuries or property damage, as herein provided. Notwithstanding the foregoing, in the event of Contractor's breach of this Agreement and abandonment of the Assigned Premises, pursuant to Section 1951.4 of the California Civil Code, County may, at its sole option, elect to continue this Agreement and enforce all its rights and remedies herein against Contractor, including the right to recover rent if and as it becomes due.

### **3.16 Cumulative Remedies**

No remedy or election herein shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity.

### **3.17 Damage or Destruction of Improvements**

#### **A. Contractor Repair and Restoration**

If at any time during the Term, the Improvements constructed by Contractor upon the Assigned Premises, if any, or any part thereof, shall be damaged or destroyed by fire or other occurrence, (including an occurrence for which insurance coverage was not obtained, or unobtainable), of any kind or nature (other than Force Majeure), ordinary or extraordinary, foreseen or unforeseen, Contractor, at its sole cost and expense, and whether or not the insurance proceeds, if any, shall be sufficient for the purpose, shall proceed with reasonable diligence (subject to a reasonable time allowance for the purpose of adjusting the insurance loss), to repair, alter, restore, replace or rebuild the same as nearly as possible to its value, condition and character immediately prior to such damage or destruction (including temporary repairs and work necessary to protect the Project and Improvements from further damage), subject to such changes or alterations as may be approved by County in conformity with the provisions of this Agreement (collectively referred to below as "the work"). In the case of a Force Majeure event, Contractor and County shall engage an independent third party consultant reasonably acceptable to both parties to determine whether the Assigned Premises can be restored to operational condition within 90 days of the casualty loss event. If the Assigned Premises cannot be restored within 90 days as determined by the third party consultant, Contractor shall have the option to terminate this Agreement by providing written notice to the County and this Agreement shall terminate, including all rental obligations if applicable, as of the date of determination.

#### **B. Condition of Work**

Except as otherwise provided in this Section, the conditions under which the work is to be performed and the method of proceeding with and performing the same shall be governed by the provisions of Section 2.03, as applicable. The cost of the work for which Contractor shall be responsible under this Section shall include reasonable fees of an architect or engineer, if any, employed by County for the purpose of examining and passing upon Contractor's plans and specifications and seeing that the work conforms therewith, and such other reasonable costs as may be incurred by Department in connection with the work.

#### **C. Payment of Insurance Proceeds**

All insurance money paid on account of such damage or destruction under the policies of insurance required by this Agreement, less the cost, if any, incurred in connection with the adjustment of the loss and the collection thereof (referred to below as the "insurance proceeds"), shall be applied to the payment of the cost of the work to the extent that the insurance proceeds shall be sufficient for the purpose, and shall be paid out to or for the account of Contractor from time to time as such work progresses.

**D. Deficiency**

If the insurance proceeds shall not be sufficient to pay the entire cost of the work, Contractor shall supply the amount of any such deficiency and shall apply the same to the payment of the cost of the work, unless the cause of the damage or destruction was caused by County, in which case County shall supply the amount of any such deficiency. Except as otherwise provided in this Agreement, County shall not be obligated to make any payment, reimbursement, or contribution towards the cost of the work.

**E. Failure to Commence Repairs**

County may terminate this Agreement pursuant to Section 3.18 herein if the work shall not have been commenced within one hundred twenty (120) days after the damage or destruction has occurred or if the work, after commencement, shall not proceed expeditiously. Provided, however, that any delay resulting from a Force Majeure Event shall extend the time for commencement or completion of the work. On such termination, the insurance proceeds received by or payable to Contractor shall first be paid to Contractor's mortgagee, if applicable, in connection with Improvements on the Assigned Premises, and then, any remaining proceeds shall be paid to Contractor, and County as their respective interests may appear.

**F. Uninsurable Risk**

In the event the cause of the damage or destruction is by a risk which is or was uninsurable, then Contractor shall have the same responsibility to provide the funds necessary to pay the cost of the work as set forth in this Section.

**3.18 Early Termination by County**

County may terminate this Agreement prior to expiration of the Term hereof upon the happening of one or more of the following events if Contractor:

- (a) Fails to obtain or maintain any of the insurance coverage required by this Agreement, in which case the Director may immediately terminate the Agreement;
- (b) Makes a general assignment for the benefit of its creditors;
- (c) Files a voluntary petition, or becomes the subject of an involuntary petition, in any proceedings in Bankruptcy Court;
- (d) Vacates or abandons the Assigned Premises for a period of thirty (30) days or more;
- (e) Breaches the covenants of Exhibit F and fails to cure such breach within thirty (30) days after receipt of written notice from County or other public agency;

(f) Fails to timely replace any material Improvement which has been destroyed by fire, explosion, or other catastrophe, within one hundred twenty (120) days from the date of such destruction subject to reasonable delay due to a Force Majeure Event;

(g) Defaults in performance of any promise, term, condition, or covenant required of it herein (other than those expressly set forth in Subsections (a) through (f) above, wherein no further default notice is required), provided Contractor fails to cure such default within thirty (30) calendar days following receipt of written notice of such default from County. However, if the nature of such default is such that it cannot reasonably be cured within such period, Contractor shall be deemed to have cured such default if within such period Contractor commences performance thereof and thereafter diligently prosecutes the same to completion.

Early termination by County pursuant to this Section shall be upon not less than thirty (30) days advance written notice to Contractor, which notice shall state the basis of such termination and the effective date thereof, subject to any other notice and cure rights set forth in this Agreement (Cure Period). Upon the effective date of such termination, County may take possession of the Assigned Premises, without further notice or demand to Contractor. For the avoidance of doubt, the County may not terminate this Agreement without first providing Contractor at least thirty (30) days' advanced written notice and opportunity to cure the violation; provided that if the violation cannot be reasonably cured within the Cure Period, this Agreement may not be terminated by the County if Contractor commences to cure the violation within the Cure Period and diligently pursues completion of such violation identified in the Tenant Notice.

Failure to serve notice of termination upon the happening of any of the events described in this Section shall not operate to bar or destroy County's right to thereafter declare such termination upon the subsequent happening of any such event.

### **3.19 Early Termination by Contractor**

If Contractor is not in default of its obligations under the Agreement (beyond any applicable notice and cure periods) to the County herein, Contractor may terminate this Agreement prior to expiration of the Term under the following terms and conditions:

(a) Permanent abandonment of Airport by County;

(b) Assumption by the United States Government, or any authorized agency thereof, of the operation, control or use of Airport, or any substantial part thereof, in such manner as to substantially restrict Contractor in its operations herein for a period of ninety (90) consecutive calendar days;

(c) Issuance by a court of competent jurisdiction of a permanent injunction which in any way prevents or restrains use of Airport in a manner substantially restricting Contractor's operations at Airport herein; and/or

(d) Default by County in the performance of any promise, term, condition, or covenant required of it to be performed herein, provided County fails to cure such default within sixty (60) calendar days following receipt of written notice of such default from Contractor. However, if the nature of such default is such that it cannot reasonably be cured within such period, County shall be deemed to have cured such default if within such period the County commences performance thereof and thereafter diligently prosecutes the same to completion.

In the event of early termination by Contractor pursuant to this Section, Contractor shall pay applicable rents, fees, and charges to County, up to and including the date of such termination, subject to the provisions of Section 2.06 hereto.

### **3.20 Entire Agreement**

This Agreement, together with all exhibits attached hereto, constitutes the entire agreement between the Parties hereto, and all other representations or statements heretofore made, verbal or written, are merged herein. This Agreement may be amended only by written instrument duly executed by the Parties hereto, except as stipulated in Section 3.04 herein.

### **3.21 Environmental Requirements**

#### **A. Contractor's Compliance with Environmental Laws**

Contractor shall at all times in all respects comply with all environmental laws, and any amendments thereto affecting Contractor's operation on the Airport, including, but not limited to, all federal, State and local laws, ordinances and regulations relating to Hazardous Material. The meaning of the term "Hazardous Material" includes, without limitation, any hazardous or toxic substance, material or waste, which is or becomes regulated by any local governmental authority, the State of California or the United States Government. Contractor is held to the highest level of legal knowledge concerning current and applicable environmental law.

#### **B. Hazardous Material Storage Permit**

Contractor shall be required to obtain all applicable Hazardous Material Storage permits, if any are required, from all appropriate government agencies if it, at any time, places or stores Hazardous Material liquid, solids, compressed gas, or any other regulated substances on the Airport.

### **C. Director's Consent Required**

In addition to any permit requirement and except as provided otherwise in this Section, Contractor shall not cause or permit any Hazardous Material to be brought upon, kept or used in or about the Airport by Contractor, its agents, employees, Contractors or invitees in violation of all local, State, and federal environmental laws without the prior written consent of the Director (which the Director shall not unreasonably withhold as long as Contractor demonstrates to the Director's reasonable satisfaction that such Hazardous Material is necessary or useful to Contractor's business and will be used, kept and stored in a manner that complies with all laws regulating any such Hazardous Material so brought upon, used or kept in or about the Airport). With respect to Hazardous Materials normally and routinely used in Contractor's operations, the Director's approval shall not be required.

### **D. Indemnification by Contractor**

Contractor shall indemnify, defend and hold County harmless from any claims, judgments, damages, penalties, fines, costs, liabilities or losses which arise during or after the Term of this Agreement as a result of Contractor's handling or transporting of Hazardous Materials or as a result of Contractor's use or storage of Hazardous Materials on the Premises. In no instance shall Contractor's indemnity obligations as set forth herein apply to any pre-existing Hazardous Materials located on the Assigned Premises, or to Hazardous Materials brought (including migration) on to the Assigned Premises by the County or any third party not under the control or direction of Contractor, during the Term of this Agreement. This indemnification of County by Contractor includes, without limitation, costs incurred in connection with any investigation of site conditions or any clean up, remedial, removal, or restoration work required by any federal, State or local governmental agency or political subdivision due to the presence or impact of Hazardous Material. Without limiting the foregoing, if the presence of any Hazardous Material on the Airport caused or permitted by Contractor results in any contamination of the Airport, Contractor shall promptly take all actions at its sole expense as are necessary to render the Assigned Premises in compliance with all applicable environmental laws; provided that County's approval of such actions shall first be obtained, which approval shall not be unreasonably withheld.

### **E. Notices**

Contractor shall promptly notify County both verbally and in writing of: (1) any enforcement, clean up, removal or governmental or regulatory action instituted, completed, or threatened pursuant to any Hazardous Materials laws; and/or (2) any claim made by any person against Contractor relating to damage, contribution, cost recovery compensation, loss, or injury resulting from or claiming to result from any Hazardous Materials in its operations at Airport. Contractor shall also supply to County as promptly as possible, and

in any event within ten (10) business days after Contractor first receives or sends the same, copies of all claims, reports, complaints, notices, or warnings or asserted violations regarding Hazardous Materials relating in any way to Contractor's operations at Airport thereof.

#### **F. Right of Entry**

During the Term of this Agreement the Director, or those authorized by the Director, shall have the right of entry to test and determine the extent of any contamination of the Assigned Premises provided that any such testing shall not unreasonably disrupt or interfere with Contractor's operations and, upon request by the Contractor, the Director, or those authorized by the Director, having agreed to comply with Contractor's reasonable health, safety, and security protocols that do not conflict with Airport security regulations or protocols. The results of such tests (including any reports, documents or test results) shall be simultaneously provided to the Director and Contractor.

#### **G. Environmental Audit**

County shall have the right to conduct an environmental audit (Audit) upon expiration or earlier termination of this Agreement. Said Audit shall be conducted at Contractor's expense, up to a maximum of \$5,000.00, according to procedures and by a person or entity approved by the Director. If contamination due to Contractor's use or occupancy of the Assigned Premises is found, Contractor shall be required to perform corrective action to remove contamination generated by Contractor or its representatives during Contractor's Term, if and to the extent required by any environmental agency. Contractor shall, in consultation with County, determine the schedule, technique, method, and design of the mitigation and/or remediation, subject to the then current environmental requirements as identified in this Section.

For the avoidance of doubt, Contractor shall, under no circumstances, be held responsible, under any provision of this Agreement, for Hazardous Materials that pre-date the execution of this Agreement or are brought (including migration) on to the Assigned Premises by the County or any third party not under the control or direction of Contractor.

#### **H. Hazardous Materials Spill Release Reporting and Cleanup Policies**

At all times during the Term of the Agreement, Contractor shall comply with the Airport System's policies for the reporting and cleanup of Hazardous Materials spills or releases.

### **3.22 Force Majeure**

Neither County nor Contractor shall be deemed to be in breach of this Agreement if either is prevented from performing any of its obligations herein by a Force Majeure Event.

### **3.23 Headings**

The headings of the Articles and Sections of this Agreement are inserted only as a matter of convenience and for reference, and do not define or limit the scope or intent of any provisions of this Agreement, and shall not be construed to affect in any manner the terms and provisions hereof or the interpretation or construction thereof.

### **3.24 Indemnification**

To the fullest extent permitted by law, Contractor shall indemnify, defend, and hold harmless County, its governing Board, officers, directors, officials, employees, and authorized volunteers and agents (individually an "Indemnified Party" and collectively "Indemnified Parties"), from and against any and all claims, demands, actions, losses, liabilities, damages, and all expenses and costs incidental thereto (collectively "Claims"), including cost of defense, settlement, arbitration, expert fees, and reasonable attorneys' fees, resulting from injuries to or death of any person, including employees of either party hereto, and damage to or destruction of any property, or loss of use or a reduction in value thereof, including the property of either party hereto, arising out of, pertaining to, or resulting from the acts or omissions of Contractor, its officers, employees, or agents, or the acts or omissions of anyone else directly or indirectly acting on behalf of the Contractor, or for which Contractor is legally liable under law. Contractor understands and agrees that this indemnity obligation shall apply regardless of whether any loss, damage or cost arises from, whether in whole or in part, any acts or omissions, or any other negligence, concurrent or otherwise, on the part of any party indemnified hereunder, except only those Claims caused by the sole negligence or willful misconduct of an Indemnified Party.

The right to defense and indemnity under this Section arises upon occurrence of an event giving rise to a Claim and, thereafter, upon tender in writing to Contractor. Contractor shall defend Indemnified Parties with counsel reasonably acceptable to County. Notwithstanding the foregoing, County shall be entitled, on its own behalf, and at the expense of Contractor, to assume control of its defense or the defense of any Indemnified Party in any legal action, with counsel reasonably selected by it. Should County elect to initially assume control of its defense, or the defense of any Indemnified Party, it does so without prejudice to its right to subsequently request that Contractor thereafter assume control of the defense and pay all reasonable attorneys' fees and costs incurred thereby.

This indemnity obligation shall not be limited by the types and amounts of insurance or self-insurance maintained by Contractor or Contractor's subcontractors and suppliers at any tier.

Nothing in this indemnity obligation shall be construed to create any duty to, any standard of care with reference to, or any liability or obligation, contractual or otherwise, to any third party.

The provisions of this Indemnity shall survive the expiration or termination of the Agreement.

### **3.25 Independent Contractor**

Contractor is not an employee or agent of County by reason of this Agreement, or otherwise. Contractor shall be solely responsible for its acts and omissions arising from or relating to its operations or activities at Airport or assignment of property herein.

### **3.26 Industrial Waste Disposal**

All disposal of storm, sanitary sewage, and industrial waste shall be in accordance with the Sacramento County Regional Sanitation District, the National Pollutant Discharge Elimination System (NPDES) and all federal, State, and local laws. Contractor shall comply with all federal and State regulations governing the NPDES including all future amendments of said regulations, and all applicable procedures as may be adopted by federal, State, or local agencies.

### **3.27 Interpretation of Agreement**

Nothing herein contained shall be construed or interpreted, in any manner whatsoever, as limiting, relinquishing or waiving any of the rights of ownership enjoyed by County in and to Airport property, or in any manner waiving or limiting County's control over the operation and maintenance of the Airport property or in derogation of such governmental rights as County possesses, except as is specifically provided for herein.

### **3.28 Invalid Provisions**

In the event of any covenant, condition, or provision of this Agreement or the application thereof to any person, entity, or circumstances, shall to any extent be held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the terms, covenants, conditions, or provisions of this Agreement, or the application thereof to any person, entity, or circumstance, shall remain in full force and effect and shall in no way be affected, impaired, or invalidated, provided that such invalidity, voiding or unenforceability of such covenant, condition, or provision does not materially prejudice either party in its respective rights and obligations contained in the then remaining valid covenants, conditions, or provisions of this Agreement.

### **3.29 Improvements by Contractor**

Contractor shall, at its sole cost and expense, complete the construction project as described herein and throughout this Agreement (hereafter "Project"). The Project shall include all Assigned Premises improvements and trade fixtures, signs, and any additional items necessary to the operation of the CRDC.

Except as otherwise provided herein, Contractor shall make and maintain, at Contractor's own expense, all Improvements necessary to perform the Scope of Work set forth in Exhibit B and all other equipment necessary for the proper conduct of Contractor's business. All Trade Fixtures contained within the Assigned Premises must be of first-class quality, safe, fire resistant, and may be installed only with the Department's prior written approval. The Project and any future projects shall be constructed in accordance with all applicable laws, regulations, and permit requirements, including those of the County.

Any review or approval by the Department of Contractor's plans or an inspection by County of the Project work or materials shall not be deemed to constitute a waiver or release by Department of any obligation or responsibility of Contractor hereunder, or an assumption of any risk or liability by County with respect thereto, and Contractor shall make no claim against County on account of such review, approval, or inspection.

Contractor shall cause all improvements authorized herein to be constructed only by a contractor properly licensed by the State of California to construct such improvements.

Contractor shall be solely responsible for payment to such contractor for all elements of such construction, and shall keep the Assigned Premises free and clear of all mechanics liens resulting from any construction thereto by or on behalf of Contractor. Contractor may contest the correctness or validity of any such lien, but shall indemnify, defend, and hold harmless County, its elected representatives, officers, agents, and employees, and the Assigned Premises from any and all claims and liability for payment of any such lien. County may file notice of non-responsibility for its lien protection.

#### **A. General**

No improvements, alterations or repairs of any kind shall be erected, placed, assembled, constructed or permitted on the Assigned Premises without first obtaining written authorization from the Department. In the sole opinion of the Department, if the proposed improvement, alteration or repair project is of a minor nature, the project may be reviewed and approved solely by the Director. The Department, at its sole discretion, based on the nature of the proposed improvement, alteration or repair project may waive one or more of the procedures as set forth in this Section herein.

Notice of such waiver shall be in writing. In the absence of such written waiver, Contractor must follow the procedures as set forth herein.

## **B. Conceptual Review**

Prior to the preparation of preliminary plans, Contractor shall contact the Airport Coordinator to schedule a pre-Project Conceptual Review meeting to brief Department staff on the proposed improvement(s).

## **C. Preliminary Plans**

The Department shall assign a project manager to coordinate with the Contractor on all aspects of the Project, including coordination of plan submittals to all Department sections necessary for Project approval and coordination of the Project.

Preliminary plans shall show the full extent of the improvements to be constructed in sufficient detail to determine compatibility with Department's objectives for the overall aesthetic character and quality of the improvements as 22"x34" drawings, including structural details and utility locations showing the relationship of the proposed improvements to current building and utility connections. Plans should be submitted to the Department via County Share Drive. CAD related data used to create the plans in AutoCAD's "dwg" format, shall be submitted for approval to the Airport Project Coordinator.

Civil engineering plans shall include plan drawings submitted on a scale not smaller than one (1) inch equals fifty (50) feet. Architectural plans shall include plan drawings at a suitable scale but in no case shall the scale be smaller than 1/16 inch equals one (1) foot. Architectural Projects shall include an accurate architectural perspective color rendering including the proposed exterior color, scheme, style, materials, wording and placement of all Signs. Plans shall include complete specifications in sufficient detail for the Director to determine compatibility with Department's overall objectives for the aesthetic character and quality of the Assigned Premises Improvements. Contractor hereby warrants that the Department may use all plans and specifications submitted by Contractor or any other person, for purposes relevant to and consistent with this Agreement.

## **D. Review of and Comment on Preliminary Plans**

Within thirty (30) days of the date of receipt of the preliminary plans, the Department will electronically return plans with comments. Department's review and comment on the preliminary plans does not mean or infer that the proposed improvement has been approved by the County. Additional plans, specifications or design features beyond those submitted with the preliminary plans may be required and shall be prepared by Contractor at the request of the Department.

## **E. Final Plans**

Final plans and specifications showing responses to comments received and setting forth in all necessary detail the requirements for construction of the Project shall be submitted to the Department for approval prior to submitting plans to other applicable agencies so that the County may check them for design conformance with the preliminary plans. All the CAD related data used to create the plans in AutoCAD's "dwg" format must be included in the submittal.

## **F. Review and Approval of Final Plans**

Within thirty (30) days of the date of receipt of the final plans, the Department will electronically return the final plan review including any additional comments. Once all comments are addressed, the Department requires a final plan back-check. Once final plans are approved, the County will return final plans to Contractor with the Airport approval stamp on the plans. The County will retain one (1) full set of final plans. The County approval of the final plans shall only mean that the proposed improvement is consistent with the County's goals and objectives for Airport development projects and does not infer that the proposed improvement is approved by the County of Sacramento Municipal Services Agency. After approval of the final plans by the County, Contractor has full responsibility for obtaining all required federal, State and local approvals and permits including compliance with California Environmental Quality Act (CEQA) requirements.

## **G. Modification of Final Plans**

Any modifications to the approved final plans including environmental mitigation measures, modifications imposed by the County of Sacramento Municipal Services Agency, or construction change orders shall be submitted to the Department for approval prior to construction.

## **H. Environmental Review and Approval**

When applicable to Project requirements, Contractor shall, prior to the installation of the Project and as a condition of this Agreement, obtain all approvals required by federal (including National Environmental Policy Act), State (including California Environmental Quality Act) and local laws and comply with any adopted Mitigation Monitoring and Reporting Program (MMRP), as necessary to comply with the provisions of the Agreement.

## **I. Notice to Proceed**

The Director's approval of the final version of the plans and specifications required to be finalized under this Section shall constitute Contractor's Notice to Proceed with the Project, provided that all of the following requirements have been satisfied:

- (1) Contractor has delivered to the Director and Risk Manager for approval, and the Director and Risk Manager have approved, certificates of insurance and required endorsements for coverage evidencing Contractor's and Contractor's construction contractor's insurance coverage to be in compliance with the applicable insurance provisions detailed herein; and
- (2) Contractor has delivered to the Department, and Department has approved, an Injury and Illness Prevention Plan and Contract Specific Safety Plan; and
- (3) Contractor shall submit to the Director a copy of the building permits issued to Contractor by the Sacramento County Building Inspection Division; and
- (4) Contractor shall notify the Director of Contractor's intention to commence construction of the Project at least forty-eight (48) hours before commencement of such work or delivery of any material to be used in such work at the Assigned Premises; and
- (5) No less than fifteen (15) days prior to beginning construction on the Project, Contractor's construction contractor has duly executed a Labor and Materials Payment Bond conforming to the requirements of Section 3248 of the California Civil Code, with a surety authorized to do business in the State of California, in an amount equal to Contractor's contract for construction of the Project. Contractor shall provide Department with a true copy of such executed bond, upon request by the Director; and
- (6) No less than fifteen (15) days prior to beginning construction on the Project, Contractor has delivered to the Director a performance bond executed by the Contractor's contractor and a surety reasonably acceptable to County, in a sum not less than one hundred percent (100%) of the final construction cost, to guarantee the faithful performance of all covenants and stipulations of the Agreement during the design and construction phases of the Agreement. The performance bond shall contain a provision that the surety thereon expressly waives the provisions of California Civil Code Sections 2819 and 2845 and shall name the County as Dual Obligee thereunder subject to the approval of County.

Contractor shall provide the surety company(s) with a copy of this Agreement. The contracts with any such surety company(s) shall provide that such surety company waives notice of change, extension of time, alteration or addition to the terms of this Agreement or to the work to be performed hereunder or to the specifications accompanying the same, or any other act or acts by the County or the County's authorized agents under the terms of this Agreement. Failure to so notify the surety company of changes

shall in no way relieve the surety company of its obligations under its payment or performance bond, as applicable.

## **J. Duty to Construct**

Contractor shall cause the Project to be constructed and installed in accordance with this Agreement and all applicable laws, regulations, and permit requirements, including those of the County. If any portion of the underlying required documentation for the Project is non-compliant in any way, Contractor, at its sole expense, shall modify the Project plans and specifications until compliance is achieved. Department shall have the right to inspect the construction and installation of the Project for compliance with the approved Project plans and specifications and Contractor, at Contractor's sole expense, shall modify any construction or installation found by County not to be in accordance with the approved Project plans and specifications.

Any review or approval by the Director of Contractor's plans and specifications and construction schedule, or any inspection by Department of the Project work or materials, shall not be deemed to constitute a waiver or release by County of any obligation or responsibility of Contractor under this Agreement, or assumption of any risk or liability by County with respect thereto, and Contractor shall make no claim against County on account of such review, approval, or inspection. County reviews, approvals and inspections shall not constitute assumption by County of any responsibility for the adequacy of the design or the construction. Such responsibility shall remain totally with Contractor and Contractor's architects, engineers and contractors. County inspections conducted pursuant to this section will be conducted after giving Contractor notice no less than two (2) business before the scheduled date of the inspection, and such inspections shall not unreasonably interfere with the construction of the Project by Contractor or the use and occupancy of the Assigned Premises by Contractor and its subtenants.

Contractor shall cause the Project and any other repair, alteration or improvement authorized herein to be constructed only by a contractor licensed for such work by the State of California. Contractor shall be solely responsible for payment to such contractor for all elements of such construction.

Contractor shall be responsible for providing any necessary materials to connect with utilities at a location designated by Department.

If Contractor determines high mast light poles are to be removed from the Assigned Premises, Contractor shall be responsible for such removal and relocation to an area designated on-Airport.

**K. Construction Timeline**

The completion date of the Project shall occur on or before the date set forth in the Conceptual Review. Contractor shall provide to the Department the construction schedule. Any changes to the completion date may only be made if approved in writing by the Director. Any failure to complete construction of the Project by the Completion Date that is attributed solely to the actions of the County ("County Delay"), such as the unreasonable interference by County or its agents with the substantial completion of the Project, or the County's failure to meet approval deadlines as contemplated in this Agreement, or any delays in permitting the Project beyond time periods that are typical for permit approval in the County, shall not result in the default of Contractor under the terms of this Agreement, and shall be considered by Director as a basis for modifying the completion date to a later date.

**L. Notice of Completion**

Within ten (10) days of construction completion, Contractor shall submit a Notice of Completion to the Department. Within ten (10) days of receipt of Notice of Completion, the Department may schedule an inspection of the improvements to be accompanied by Contractor for purposes of confirming compliance with the final plans and any subsequent modifications to the final plans. This inspection tour may be scheduled at the same time Contractor schedules a final inspection in accordance with any requirements imposed by the County of Sacramento Municipal Services Agency.

**M. As-Constructed/Record Drawings**

Within ninety (90) days after filing a Notice of Completion, which is due within ten (10) days after construction completion, Contractor shall furnish to the County one (1) complete set of electronic AutoCAD format Record Drawings and one (1) complete set of either pdf, dwf, or tif files showing the "as-constructed" improvements. Record Drawings shall be dated and stamped by the engineer or architect of record. If by the ninety-first (91st) day after construction has been completed Contractor fails to submit "as-constructed" drawings, Contractor will pay penalties in the amount of one hundred dollars (\$100.00) per day until such a time when drawings have been submitted.

**N. Removal of Unapproved Improvements**

Improvements made on Contractor's Assigned Premises without the approval of final plans for said improvements as outlined herein are hereby determined to be unapproved improvements constructed or installed in violation of the conditions, restrictions and requirements of this Agreement. Unapproved improvements shall be immediately removed at Contractor's sole expense, unless otherwise approved in writing by the Department. Portions

of improvements that are not constructed as indicated and specified on approved plans are also hereby determined to be unapproved improvements and shall be immediately removed or corrected at Contractor's sole expense.

**O. Liquidated Damages for Failure to Timely Complete the Project**

The Project shall be completed no later than \_\_\_\_\_ (\_\_\_\_) days after Notice to Proceed is issued. It is imperative that Contractor complete the Project by the timeframe indicated in this Section, unless approved by the Director in writing prior to that date, in order serve the traveling public. Therefore, it is agreed that as liquidated damages for failure to complete the Project, Contractor agrees to pay to the County the amount of Five Hundred Dollars and 00/100ths (\$500.00) per day per concession location until the Project is complete. This amount shall be in addition to all Rent and other charges and fees due.

**P. Certification of Facility Build-Out Investment**

Contractor shall provide the Department with verifiable receipts and certified lien releases for its minimum total cost of the Project within one hundred twenty (120) days of the completion of the construction/ refurbishment/removal to confirm the amount of the investments.

**Q. Title to Tenant Improvements**

Contractor shall retain title to its Improvements in, at or serving the Assigned Premises for so long as such Assigned Premises are leased to Contractor under this Agreement. Thereafter, the County, at its option, reserves the right to take immediate title to some or all of such Improvements at no cost or expense. Those Improvements to which the County does not take title must be removed expeditiously by Contractor and, any damage caused by the removal of such Tenant Improvements must be repaired by the Contractor at no cost to the County, unless otherwise agreed to in writing by the Department.

**3.30 Licenses and Permits**

Contractor shall obtain, at its sole cost and expense, all necessary licenses and permits required for construction or installation of equipment on the Assigned Premises, and any other licenses or permits necessary for the conduct of Contractor's operations at Airport.

**3.31 Negation of Partnership**

Nothing in this Agreement shall be construed to render County in any way or for any purpose, a partner, joint venture, or associate in any relationship with Contractor other than that of landlord and tenant, nor shall this Agreement be

construed to authorize either County or Contractor to act as agent for the other.

### **3.32 Noise Control**

Contractor, for itself and each of its officers, representatives, agents, employees, guests, patrons, Contractors, subcontractors, licensees, subtenants, invitees, or suppliers shall not conduct any operation or activity on the Assigned Premises, or elsewhere at Airport, in which the sound emitting therefrom is of such volume, frequency, or intensity at such time as to constitute a nuisance. The Director shall have the sole and exclusive authority to determine what constitutes a nuisance under the provisions of this Section except that operations and activities having noise levels not in violation of federal, State, or local governmental standards shall not be deemed a nuisance.

### **3.33 Nondiscrimination**

Contractor, for itself, and each of its personal representatives, successors in interest, and assigns, as part of the consideration hereof, does hereby covenant and agree that:

- (a) No person on the grounds of race, color, creed, national origin, sex, age or handicap shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of Contractor's facilities pursuant to its respective operations and obligations hereunder;
- (b) In the furnishing of services on Airport, no person on the grounds of race, color, creed, national origin, sex, age or handicap shall be excluded from participation in, denied the benefit of, or otherwise be subjected to discrimination; and
- (c) Contractor shall use Airport in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally assisted programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as such Regulations may be amended.

### **3.34 Nonexclusive Rights**

Nothing herein shall be construed to grant or authorize the granting of any exclusive right or privilege within the meaning of 49 U.S.C. 47107 for the conduct of any activity on the Airport. Provided, however, subject to the terms and provisions of this Agreement, Contractor shall have the right to exclusive possession of the Assigned Premises described by Section 2.02.

### **3.35 Nonwaiver of Rights**

No failure by County to insist upon the strict performance of any covenant, term or condition of this Agreement or to exercise any right or remedy consequent upon a breach thereof, and no acceptance of full or partial rents or fees during the continuance of any such breach, shall constitute a waiver of any breach or of such covenant, term, or condition.

Unless agreed otherwise by the parties in writing, no receipt of monies by County from Contractor after the termination of this Agreement, or after the giving of any notice of termination of this Agreement (unless such receipt cures the event of default which was the basis for the notice) shall reinstate, continue, or extend the Term or effect any notice theretofore given to Contractor, or operate as a waiver of the right of County to enforce the payment of rents or fees payable by Contractor hereunder or thereafter falling due.

### **3.36 Notice of Claims and Suit**

Contractor shall give the County prompt and timely written notice of any personal injury or other accident claims, and of any lawsuit, coming to its knowledge when either such claim or lawsuit arises out of or is in any way connected with the operations of Contractor herein, or the construction or operation of Airport by County, which in any way, directly, indirectly, contingently or otherwise, might reasonably affect the parties' relationship under this Agreement.

Such notice shall be deemed prompt and timely if given within thirty (30) calendar days following the date of receipt of such claim by an officer, agent, or employee of Contractor, and if given within ten (10) calendar days following the date of service of process upon Contractor with respect to any such lawsuit.

### **3.37 No Warranty**

County does not warrant that the Airport will continue to be used as an airport during the Term of this Agreement. In the event that such airport use is terminated, whether temporarily or permanently, Contractor shall neither claim, nor have entitlement to, any damages whatsoever from County under this Agreement; provided however, if such damages were caused by County's negligence or willful misconduct, the foregoing claim and entitlement waivers shall not apply.

### **3.38 Nuisance and Waste**

Contractor for itself and its officers, representatives, agents, employees, guests, patrons, Contractors, subcontractors, licensees, subtenants, invitees, and suppliers shall not erect nor permit to be erected any nuisance on the Assigned Premises, nor permit any waste thereon.

### **3.39 Operational Audit**

County reserves the right to conduct or contract with a third party to audit or review Contractor's compliance with the operational provisions of this Agreement. Contractor agrees to cooperate with County regarding any operational audit and to provide access to the Assigned Premises and all applicable records in a timely manner for the purpose of conducting the audit.

### **3.40 Peaceable Use and Enjoyment**

Contractor shall, upon payment of the fees and charges as herein required, and subject to performance and compliance by Contractor of the covenants, conditions, and permits on the part of Contractor to be performed and complied with herein, peaceably have and enjoy the rights, uses and privileges of the Airport, its appurtenances and facilities as granted hereby and by the Airport Rules and Regulations.

### **3.41 Prohibition of Liens**

Contractor shall pay promptly, as due, all persons supplying labor and materials for any alteration of, or improvement to, the Assigned Premises, and shall permit no lien or claim to be filed or prosecuted against County on account of such labor and materials furnished.

### **3.42 Release of Liability**

County shall not be liable for, and is hereby reassigned from, any and/or all liability to Contractor or to anyone else claiming under or through Contractor for any loss or damage whatsoever to the property or effects of Contractor resulting from the discharge of water or other substances from pipes, sprinklers, conduits, containers, appurtenances thereof, or fixtures thereto or from any damage resulting from the discharge of or failure of electric current, regardless of cause or origin, except to the extent caused by the negligence or willful misconduct of County, its employees, or agents.

### **3.43 Reports**

Contractor shall, without additional compensation therefore, make fiscal, program evaluation, progress, and such other reports as may be reasonably required by Department concerning Contractor's activities pursuant to this Agreement. Department shall explain procedures for reporting the required information as and when necessary. At a minimum:

- Contractor shall submit monthly reports to Department by the fifteenth (15<sup>th</sup>) day of each month identifying: 1) the time of each delivery received into the CRDC; 2) the intended recipient of each delivery received into the CRDC; 3) the type of goods or supplies delivered into the CRDC; 4) the time the goods or supplies were delivered to the

intended recipient by the Contractor; 5) the volume of goods and supplies by number of pieces, weight, cubes, and dollar volume delivered to each recipient; and 6) any other information requested by Department related to Contractor's performance pursuant to this Agreement.

- Each Monday during the Term, Contractor shall submit to Department a detailed delivery schedule for the next week, thus providing the Department a minimum of seven (7) days advance notice of deliveries.

### **3.44 Removal of Contractor's Property**

Contractor shall remove its inventory, Trade Fixtures, and furnishings (but not including the Improvements) from the Assigned Premises upon expiration or earlier termination of this Agreement. If Contractor does not elect, or otherwise fails to remove the same, or any part thereof, within thirty (30) days following County's regaining possession of the Assigned Premises, Department may, at its option, either require such removal at Contractor's sole cost and expense, or keep such property, in which latter event, title to the same shall vest in County without any obligation to pay Contractor with respect thereto.

### **3.45 Restrictions and Regulations**

This Agreement, and the rights herein granted to operate at Airport, shall be subject to any and all Airport Rules and Regulations and applicable local, federal, State, and County rules, regulations, orders, and restrictions which are now in force or which may hereafter be adopted by any duly authorized governmental agency with respect to Contractor's operation at Airport.

### **3.46 Right of Entry**

Upon agreement to comply with Contractor's reasonable health, safety, and security protocols that do not conflict with Airport security regulations or protocols and the confidentiality requirements of this Agreement, the Director shall have the right, throughout the Term of this Agreement, to enter the Assigned Premises for any lawful purpose, including the purpose of determining whether Contractor is complying with its obligations herein. Contractor shall normally be given a seven (7) days' notice prior to exercise of such right, except in emergencies related to safety or environmental purposes. Such entry by County shall not be deemed to excuse Contractor's performance of any promise, term, condition, or covenant required of it by this Agreement, and shall not be deemed to constitute waiver thereof by County.

### **3.47 Risk Reduction**

Contractor shall neither use nor permit the use of the Assigned Premises in such a manner as to increase the County's exposure, which would affect the

insurance premiums thereon in excess of that in existence at the commencement of the Term hereof.

### **3.48 Security**

It is the responsibility of Contractor to maintain security of the entire Assigned Premises, including the assigned vehicle parking area or other areas assigned to Contractor. Consistent with Exhibit C, Contractor shall be responsible for the conduct and actions of Contractor's employees, volunteers, subtenants, contract employees, or other personnel conducting business on the Airport.

### **3.49 Signs**

Contractor shall not erect, maintain, or display any Sign on the Assigned Premises or elsewhere at Airport without the prior written consent of the Director. Contractor shall submit drawings, sketches, designs, and dimensions of such signs to the Director when requesting such approval and such approval will not be unreasonably withheld or delayed. All such signs shall be consistent with County's general Sign policy for Airport. Any condition, restriction, or limitation as to use or appearance of such signs as may be stated by the Director in writing shall become a part of this Agreement, as if specifically set forth herein.

### **3.50 Statement Regarding a Certified Access Specialist**

Pursuant to California Civil Code §1938, the County states that the Assigned Premises:

- Have not undergone an inspection by a Certified Access Specialist (CASp).
- Have undergone an inspection by a Certified Access Specialist (CASp) and it was determined that the Assigned Premises met all applicable construction-related accessibility standards pursuant to California Civil Code §55.51 et seq.
- Have undergone an inspection by a Certified Access Specialist (CASp) and it was determined that the Assigned Premises did not meet all applicable construction-related accessibility standards pursuant to California Civil Code §55.51 et seq.

A Certified Access Specialist (CASp) can inspect the subject Assigned Premises and determine whether the subject Assigned Premises comply with all of the applicable construction-related accessibility standards under State law. Although State law does not require a CASp inspection of the subject Assigned Premises, the commercial property owner or lessor may not prohibit the Contractor or tenant from obtaining a CASp inspection of the subject Assigned Premises for the occupancy or potential occupancy of the Contractor or tenant, if requested by the Contractor or tenant. The parties shall mutually agree on the arrangements for the time and manner of the CASp inspection, the payment of the fee for the CASp

inspection, and the cost of making any repairs necessary to correct violations of construction-related accessibility standards within the Assigned Premises.

### **3.51 Successors and Assigns**

The provisions of this Agreement shall be binding upon and inure to the benefit of the respective successors, assigns, heirs, and personal representatives of the parties hereto.

### **3.52 Surrender of Assigned Premises**

County is not required to give Contractor any notice to quit possession of the Assigned Premises upon expiration of this Agreement. Contractor shall peaceably surrender possession of the Assigned Premises upon expiration or earlier termination of this Agreement in substantially as good order and condition as when received, excepting reasonable wear and tear, destruction by lightning or other natural causes, or fire not caused by the acts or omissions of Contractor, its officers, agents, employees, subcontractors, customers, invitees, or other persons doing business with Contractor or on the Assigned Premises with the consent of Contractor.

### **3.53 Taxes**

Contractor shall, at its sole cost and expense, pay any and all applicable taxes for which it is responsible, or which may be assessed against it.

#### **A. Possessory Interest and Property Taxation**

Under this Agreement a possessory interest subject to property taxation may be created. Pursuant to California Revenue and Taxation Code Section 107.6 and Government Code Section 53340.1, notice is hereby given that such possessory interest may be subject to property taxation and special taxation pursuant to Chapter 25, Division 2 of the Government Code (Mello Roos Community Facilities Act of 1982), and that the party in whom the possessory interest is vested may be subject to the payment of property taxes and special taxes levied on such interest. Contractor shall pay any and all applicable taxes, assessments, and other charges of whatsoever character that may be levied or charged upon Contractor's interest as herein may be created, improvements, operations, or right to use of the Contractor's Assigned Premises.

#### **B. Right to Contest Taxes**

Contractor shall have the right to contest in its own name, or, to the extent reasonably necessary, in County's name, in good faith and by all appropriate proceedings, the amount, applicability, or validity of any tax assessment pertaining to the surface of Airport property as described in Section 2.02 above and Contractor's operations thereon. In the event

Contractor initiates such contest, County shall reasonably cooperate with Contractor, provided that such contest will not subject any part of the surface of Airport property to forfeiture or loss; and provided, further, that if Contractor contests any assessment made by the Assessor of County, such contest shall not be initiated in the name of County, and County shall not be obligated to cooperate therewith. If at any time payment of any applicable tax or assessment becomes necessary to prevent any forfeiture or loss of the use of the Airport property as described in Section 2.03 above and Contractor's operations thereon would be terminated, Contractor shall timely pay such tax or assessment to prevent such forfeiture or loss.

### **3.54 Time is of the Essence**

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

### **3.55 Title to the Assigned Premises**

Title to the Assigned Premises is and shall remain vested in the County.

### **3.56 Vehicular and Equipment Parking**

Vehicular and equipment parking in areas other than the Assigned Premises by Contractor, its officers, representatives, agents, employees, guests, patrons, volunteers, Contractors, subcontractors, licensees, suppliers, or other invitees shall be restricted to such areas at Airport as are designated by the Director.

**3.57 Execution of Agreement**

**IN WITNESS WHEREOF**, the Parties hereto have caused this Agreement at the Airport to be duly executed as of the day and year fully executed by all parties, but effective as of the Commencement Date set forth in Section 2.01.

COUNTY OF SACRAMENTO, a political  
subdivision of the State of California

“COUNTY”

Date: \_\_\_\_\_

By: \_\_\_\_\_

Cynthia A. Nichol  
Director of Airports  
on behalf of the Board of Supervisors  
of the County of Sacramento, California

\_\_\_\_\_ Name of Contractor \_\_\_\_\_

“CONTRACTOR”

Dated: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

REVIEWED AND APPROVED:

\_\_\_\_\_  
Deputy County Counsel

**EXHIBIT A**  
**Assigned Premises**

## **EXHIBIT B**

### **Scope of Work**

#### **A. GENERAL**

Contractor will be required to manage the receipt, staging, and handling of all concession parcels, goods and supplies delivered to the CRDC, and the distribution of such to all concessionaire tenants in the existing terminals and concourses at Airport. The delivery of goods by Contractor to and within the controlled areas of Airport shall be subject to both TSA and Department test and inspection.

Contractor will perform comprehensive CRDC services, which at a minimum shall include the following:

1. Evaluate Airport's concession delivery needs and provide recommendation(s) in order to implement the CRDC at Airport.
2. Design and perform necessary facility modifications to implement the CRDC.
3. Provide all necessary personnel, tenant improvements, and equipment needed to operate the CRDC at the Airport.
4. Establish rules and procedures for safe and efficient operation of the CRDC in accordance with industry standards, federal regulations, security directives, and the provisions of Exhibit C of this Agreement, as well as any other applicable Airport rules and regulations. This shall include operating hours, scheduling and acceptance of concession deliveries and returns, scheduling deliveries to terminals and concourses, transportation of goods, and use of related equipment. Contractor shall clearly provide for goods to remain sterile following inspection through final delivery at their destination. Contractor should be aware that there is a nine foot (9') height restriction in travel from the Assigned Premises to the Terminal A loading dock via the open space under Terminal A.
5. Maintain accurate logs of all deliveries and returns.
6. Implement a schedule to ensure timely delivery of received concessionaire goods and deliveries within four (4) hours of receipt at the CRDC and ensure returns are processed within necessary timeframes.

#### **B. SPECIFIED SERVICES TO BE PROVIDED**

In accordance with and at the direction and approval of the Department, Contractor shall provide the following:

1. **Tenant Improvements and Equipment:**

- a) Perform and maintain any Improvements constructed on the Assigned Premises pursuant to Section 3.29 hereof.
  
- b) Provide, install, and maintain the necessary equipment to perform the Scope of Work detailed in this Exhibit B and operate the CRDC in the most efficient manner. Contractor shall, at a minimum, provide the following equipment:
  - Office and break room furniture and associated equipment;
  - IT systems and computer equipment, including all necessary software;
  - Telephone service and equipment (may be obtained from County through separate agreement);
  - Chain link fencing or similar partitions for the storage of goods and supplies, and any special requirements for bonded items;
  - Security equipment and devices for the secure storage and monitoring of goods and supplies, with such installation being subject to prior approval by Department;
  - Pallet-lifts or jacks (including battery chargers and associated equipment); and
  - Delivery vehicles (with lift gates) to include at least one refrigerated truck with capacity for four-plus pallets. It is strongly encouraged that delivery vehicles be powered by alternative fuels and have the ability to deliver both refrigerated and frozen goods. Contractor shall incorporate alternative fuel equipment where feasible.

2. **Training Services:** Contractor shall, at no additional cost to the County, provide training to Contractor's personnel to ensure personnel are capable of performing the Operational Services required herein. Training shall include food handling and safety procedures and any required certifications.

3. **Operational Services:** During the Term of the Agreement, Contractor shall perform the following Operational Services:

- a) **Supplier Management:** Contractor shall perform those supplier management-related tasks necessary to perform the Scope of Work of this Agreement including, but not limited to, the following:
  - Meet with suppliers and delivery recipients at the Airport to ensure the efficient and timely operations of the CRDC;
  - Coordinate with Central Warehouse staff and Airport Operations regarding dock usage and schedule of all dock activities;
  - Determine the best methods of: receiving of goods, documentation,

temporary storage, staging, segregation, loading, redistribution/delivery, and returns on a daily basis; and

- Provide appropriate materials management software with the ability to track throughput, measure performance of operations, and have full audit capability.

b) **Delivery/Returns Scheduling:** Establish and manage an appropriate concession delivery and return schedule to:

- Ensure goods and supplies are delivered in a timely manner and delivered to the intended recipients no more than four (4) hours after receipt.
- Schedule dock times for all deliveries in advance as well as manage the process for completing the services required herein.
- Provide the County with a written report on Monday of each week detailing the delivery schedule for the next week (i.e. 7 days advance notice of deliveries.)
- Collaborate with the delivery recipients to ensure scheduling of inbound goods in sufficient time to enable the Contractor to deliver to recipients within agreed upon timeframes.
- Develop a plan to monitor, schedule, and pick-up returns including, but not limited to: outbound parcels, empty beer kegs, totes, pallets, bread racks, and expired food, magazines, and newspapers.
- Deliver all parcels to their intended recipients within four (4) hours from the time that the parcels arrive at the CRDC. Every effort should be utilized to prevent parcels from remaining overnight at the CRDC. Any parcels required to remain overnight shall be securely and properly stored to meet any and all applicable code requirements.
- Adhere to the Department’s predetermined locations at the terminals for all deliveries.
- Work cooperatively with suppliers and delivery recipients to schedule all concession deliveries arriving to the CRDC including but not limited to the following delivery types:
  - Goods and supplies for all concessions; and
  - Concession-related parcels (such as: FedEx, UPS, and DHL), which shall be delivered and screened through the CRDC. Deliveries to the concessionaire tenants will be coordinated by the Contractor.

c) **Hours:** Provide the County with a detailed plan of the required number of hours to perform the requested Services. No deliveries to the terminals shall be scheduled during peak aircraft operating times, which is

currently between the hours of 5:00 a.m. and 7:00 a.m. Such restriction is subject to change by County based on flight schedules or as otherwise deemed necessary to ensure safe operation of vehicles within the secure areas of Airport. Upon final agreement and establishment of the CRDC hours of operation, any changes to the hours of operation require advanced authorization, in writing, from Department. Department shall make the final determination of hours of operations for the CRDC.

- d) **Maintenance:** Contractor shall be responsible for maintenance of the CRDC facility in accordance with Section 2.09 of this Agreement.
- e) **Uniforms:** Employees of Contractor shall, at all times, wear identifiable, clean uniforms that bear both the Proposer's and employee's names.
- f) **Security and Safety Plan:** At least one (1) month prior to performing Operational Services, Contractor shall provide the Department with a safety and security plan for review and approval. As part of the review process, Contractor may be required to demonstrate said plan to the Department.

4. **Standards of Service:** Contractor shall satisfy the following operational standards of service during the term of the Agreement:

- a) The management, maintenance, and operation of the CRDC shall be under the supervision and direction of qualified, competent individuals who shall at all times be authorized to act on behalf of Contractor;
- b) Contractor shall hire or contract with a sufficient number of employees and/or contractors to enable it to conduct the Contractor's operation and perform the services as authorized and required;
- c) Contractor shall develop and operate the CRDC in accordance with TSA requirements, industry standards, Contractor's Proposal, County Policies, Codes, and Airport Rules and Regulations. This shall include retaining the sterile nature of goods post-inspection through their delivery to the concessions at the terminals;
- d) Contractor shall assign a representative who will be available to the Department's designee 24 hours per day, seven days per week; and
- e) Contractor shall exercise reasonable control over conduct, demeanor and appearance of its employees, agents, and representatives and the conduct of its contractors and suppliers who conduct business at the Airport. Upon objection from the Department to Contractor representative, agents, or employees concerning conduct, demeanor or appearance of such persons, Contractor shall immediately take all reasonable steps to remove or remedy the cause of the objection.

5. **Utilities and Maintenance**: The responsibility for utility and maintenance costs shall be governed by Article 2 of this Agreement. If hazardous chemicals are used, Safety Data Sheets must be retained onsite. Contractor must follow all requirements related to Hazards communications.

6. **Sanitation and Refuse Removal**: Contractor shall maintain the Assigned Premises in a neat, clean, and sanitary condition at all times. Contractor will be responsible for removing refuse from its Assigned Premises using covered, leak-proof receptacles and conveyances and delivering such refuse to the proper containers as identified by the Department. Contractor's disposal of refuse shall be conducted in secure containers to ensure it cannot be blown onto the Air Operations Area at Airport, creating a foreign object debris hazard. The Department reserves the right to require Contractor to provide garbage, trash, and recycling units Contractor's expense at locations as designated by the Department.

7. **Environmental**: Contractor shall comply with all Environmental requirements as detailed herein in Section 3.21.

8. **Non-Exclusivity**: Although the Department does not currently intend to have more than one CRDC logistics manager at the Airport, Contractor shall be aware that the Department may, at any time, solicit proposals or enter into negotiations for additional CRDC logistic management services.

9. **Additional Services**: During the term of the Agreement, if and when Department requests Contractor to provide services in addition to those specified above, Contractor shall develop a work plan detailing the specific tasks to be completed and providing a detailed not-to-exceed budget for performing such additional services. Contractor shall not perform any additional services unless or until Department has issued written approval to proceed with a work plan. Contractor will not be authorized to perform, or invoice County for, any work not specifically authorized in the Department's written approval to proceed.

## EXHIBIT C

### Security Plan

- a. Contractor shall comply with all security regulations at the Airport pursuant to all local, State and federal law, including, but not limited to, any and all directives issued by the County. If required, Contractor shall obtain an Airport Tenant Security Program ("ATSP") document approved by TSA within sixty (60) days of receipt of written notice from the County or as otherwise directed by TSA. If required, Contractor shall maintain any TSA-approved ATSP throughout the Term of this Agreement.
- b. Contractor's representatives, as determined by the Department, must be able to pass a security background access investigation consisting of a fingerprint based criminal records check ("CHRC") and a Homeland Security "watch list" check (collectively, "Background Check"), as well as a security threat assessment ("STA"), which must be approved by TSA before an Airport ID badge will be issued. All of Contractor's employees, contractors, or other persons doing business with Contractor requiring unescorted access to the secured area of the Assigned Premises will require a badge and are also subject to Background Check and STA. Badges are issued by the County subject to each individual's successful completion of the Background Check in compliance with 49 CFR Part 1542 and all other applicable regulatory directives. Contractor applicants with approved access media will be subject to automatic enrollment into a continuous background monitoring program.
- c. Contractor is responsible for completing and submitting all necessary documentation required for any Background Check necessary for their operations. If a badge is lost, stolen, or if the recipient fails to return the badge to the Department when required by the Department, Contractor shall be subject to a non-refundable reissuance fee, if applicable, and any other damages directly caused by the loss, theft or retention of the badge.
- d. Contractor shall establish and implement written procedures (Security Procedures) acceptable to the Department for the control of and prevention of unauthorized access to, all areas within the Assigned Premises. Contractor's Security Procedures shall also incorporate activities designed to assist the Department in safeguarding all other secured areas of Airport. The Security Procedures shall include, but are not limited to, the following procedures:
  1. Gates, doors, fences or other parts of the Assigned Premises shall be kept locked by Contractor at all times when not in use by or when not under the security surveillance of Contractor.
  2. Lock malfunctions or other deficiencies, which would permit unauthorized access, shall be reported by Contractor at once to the Department, and the unsecured access point shall be maintained under constant security surveillance by Contractor until Contractor has repaired the same and

security through such point has been restored, and/or the Department assumes security and repair of the access point.

3. Loss, misplacement, theft or failure to comply with the return of any badge shall be immediately reported to the Department.
- e. Contractor shall be solely responsible for the control and movement of persons who are representatives of Contractor and that have a valid ID badge moving from the Assigned Premises onto all secured areas of the Airport. These badged representatives will comply with Airport security standards and the airport's "Tiered" based fine program in order to obtain the badge. Contractor shall be solely responsible for the payment of any and all penalties and fines which may be levied by the TSA or other local, State or federal agencies for violation of any security regulations arising from or relating to Contractor's failure to perform its security responsibilities.
  - f. If required, Contractor shall install, maintain and operate, at no cost to County, access prevention and surveillance devices on the Assigned Premises at access points to secured areas and along the secured perimeter of the Assigned Premises, as determined by the County to be necessary for the safety or security of Airport. The County shall have unrestricted access to all access control devices or systems developed by Contractor.
  - g. Use of issued access control media for other than official employer work purposes is prohibited; use of access control media, after work hours, to gain access to secured and/or sterile areas of the Airport is prohibited.

## EXHIBIT D

### Compensation

The Annual Management Services Fee to be charged to the County during the Term of this Agreement shall be as shown below.

(Note: Dates will be updated as needed for the final Agreement)

<b><u>Base Term - Agreement Years 1 – 5</u></b>	<b><u>Annual Management Services Fee</u></b>
May 1, 2020 through April 28, 2021	\$ TBD
May 1, 2021 through April 28, 2022	\$ TBD
May 1, 2022 through April 28, 2023	\$ TBD
May 1, 2023 through April 28, 2024	\$ TBD
May 1, 2024 through April 28, 2025	\$ TBD
<b><u>Optional Years 1 &amp; 2</u></b>	<b><u>Annual Management Services Fee</u></b>
May 1, 2025 through April 28, 2026	\$ TBD
May 1, 2026 through April 28, 2027	\$ TBD
<b><u>Maximum Total Payment Amount:</u></b>	\$ TBD

## **EXHIBIT E**

### **Insurance Requirements**

Without limiting Contractor's indemnification, Contractor shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Agreement by the Contractor, its agents, representatives, employees, subcontractors, or suppliers. County shall retain the right at any time to review the coverage, form, and amount of the insurance required hereby. If in the opinion of the County Risk Manager, insurance provisions in these requirements do not provide adequate protection for County and for members of the public, County may require Contractor to obtain insurance sufficient in coverage, form and amount to provide adequate protection. County's requirements shall be reasonable but shall be imposed to assure protection from and against the kind and extent of risks that exist at the time a change in insurance is required.

#### **Verification of Coverage**

Contractor shall furnish the County with certificates evidencing coverage required below. Copies of required endorsements must be attached to provided certificates. The County Risk Manager may approve self-insurance programs in lieu of required policies of insurance if, in the opinion of the Risk Manager, the interests of the County and the general public are adequately protected. All certificates, evidences of self-insurance, and additional insured endorsements are to be received and approved by the County before performance commences. The County reserves the right to require that Contractor provide complete, certified copies of any policy of insurance including endorsements offered in compliance with these specifications.

#### **Minimum Scope of Insurance**

Coverage shall be at least as broad as:

1. AVIATION COMMERCIAL GENERAL LIABILITY or AIRPORT LIABILITY: including but not limited to, Premises/Operations, Products/Completed Operations, Contractual, and Personal & Advertising Injury, without additional exclusions or limitations, unless approved by the County Risk Manager.
2. AUTOMOBILE LIABILITY: Insurance Services Office's Commercial Automobile Liability coverage form CA 0001.
  - a. Commercial Automobile Liability: auto coverage symbol "1" (any auto) for corporate/business owned vehicles. If there are no owned or assigned vehicles, symbols 8 and 9 for non-owned and hired autos shall apply.

3. WORKERS' COMPENSATION: Statutory requirements of the State of California and Employer's Liability Insurance.
4. UMBRELLA or Excess Liability policies are acceptable where the need for higher liability limits is noted in the Minimum Limits of Insurance and shall provide liability coverages that at least follow form over the underlying insurance requirements where necessary for Commercial General Liability, Commercial Automobile Liability, Employers' Liability, and any other liability coverage (other than Professional Liability) designated under the Minimum Scope of Insurance.
5. BUILDER'S RISK INSURANCE: **If applicable**, for construction of all structures, equipment and any other improvements.
6. ENVIRONMENTAL IMPAIRMENT LIABILITY: Insurance which includes coverage arising out the handling, remediation, clean-up or transport of hazardous materials or hazardous wastes, including coverage for liability arising out of the handling of asbestos.
7. PROFESSIONAL LIABILITY or ERRORS AND OMISSIONS LIABILITY insurance applicable to Contractor's or Prime Contractor's Design and Engineering Firm.
8. WAREHOUSE OPERATORS LEGAL LIABILITY: The policy shall provide insurance covering all risk of loss or damage to property of others while in the care, custody, or control of Contractor while acting as a warehouse operator or as a "bailee". The policy shall be written at limits sufficient to cover a total loss to the warehouse facility on an actual cash value basis, naming the County as additional insured. The policy shall be endorsed to include:
  1. Cold Storage endorsement;
  2. Endorsement covering losses resulting from refrigerant leaks;
  3. Inventory shortage endorsement;
9. MOTOR TRUCK CARGO: The policy shall provide insurance covering direct physical loss of property of others in the care, custody, or control of Contractor while in due course of transit including loading and unloading. This policy can be written on a separate policy or by endorsement to the Warehouse Operators Legal Liability policy. The policy shall be written at limits sufficient to cover a total loss to any one conveyance.
10. ALL-RISK PROPERTY INSURANCE. Contractor shall insure for All-Risk property insurance coverage on any and all Contractor personal property, and improvements on Assigned Premises and any other areas at the Airport used by Contractor. Such insurance shall be in an amount equal to the full replacement cost value of such personal property and improvements belonging to Contractor.

## **Minimum Limits of Insurance**

Contractor shall maintain limits no less than:

1. Aviation Commercial General Liability or Airport Liability shall be on an Occurrence basis (as opposed to Claims Made basis). Minimum limits and structure shall be:

General Aggregate:	\$5,000,000
Products Comp/Op Aggregate:	\$5,000,000
Personal & Adv. Injury:	\$1,000,000
Each Occurrence:	\$5,000,000
Fire Damage:	\$1,000,000 (or replacement value of building you lease, whichever is greater.)
  
2. Automobile Liability:
  - a. Commercial Automobile Liability for Corporate/business owned vehicles including non-owned and hired, \$5,000,000 Combined Single Limit for vehicles used airside; \$1,000,000 for vehicles operated landside only.
  
3. Workers' Compensation: Statutory.
  
4. Employer's Liability: \$1,000,000 per accident for bodily injury or disease.
  
5. Builders Risk coverage for new construction with coverage written on a completed value non-reporting form (for total price of construction); property shall be covered against all risks of physical loss or damage including:
  - a. Earthquake, flood, theft, and collapse.
  - b. Loss that ensues from design error, defective materials, or faulty workmanship.
  - c. Mechanical breakdown or electrical damage including testing, if mechanical or electrical apparatus are to be installed by Contractor's Contractor.

The property covered shall include work, materials, equipment, and other items to be incorporated into buildings or structures, while the same are located at the construction site, stored off-site, while in transit or at the place of manufacture. Coverage may be provided by Contractor or Contractor's Contractor.

The policy shall contain a provision that both the interest of the County and the Contractor and/or Contractor are covered and that any loss shall

be payable to the County and the Contractor/Contractor, as their interest may appear.

The County and Contractor shall waive all rights against each other and against all other Contractors for loss or damage to the extent reimbursed by Builder's Risk insurance or any other property or equipment insurance applicable to the work, except such rights as they may have to the proceeds of such insurance. If the policies of Builder's Risk insurance referred to in this section require an endorsement or consent of the insurance company to provide for continued coverage where there is a waiver of subrogation, the owners of such policies will cause them to be so endorsed to obtain such consent.

If not covered by Builder's Risk insurance or any other property or equipment insurance required by this Agreement, the Contractor/ Contractor shall procure, maintain, and keep in force at all times during the term of the Agreement, at the Contractor's or Contractor's sole expense, property insurance for portions of the Contractor's work and/or equipment to be incorporated therein stored off-site or in transit.

6. Environmental Impairment Liability: \$1,000,000, per claim and aggregate.
7. Professional Liability or Errors and Omissions Liability: \$1,000,000 per claim and aggregate.
8. Warehouse Operators Legal Liability: AS DESCRIBED ABOVE IN MINIMUM SCOPE OF INSURANCE.
9. Motor Truck Cargo: AS DESCRIBED ABOVE IN MINIMUM SCOPE OF INSURANCE.
10. All-Risk Property Insurance: AS DESCRIBED ABOVE IN MINIMUM SCOPE OF INSURANCE.

### **Deductibles and Self-Insured Retention**

Any deductibles or self-insured retentions shall be the responsibility of Contractor as defined by Contractor's insurance or self-insurance program. .

### **Claims Made Professional and/or Environmental Impairment Liability Insurance**

If professional liability coverage is written on a Claims Made form:

1. The "Retro Date" must be shown, and must be on or before the date of the Agreement or the beginning of Agreement performance by Contractor.
2. Insurance must be maintained and evidence of insurance must be provided for at least one (1) year after completion of the Agreement.

3. If coverage is cancelled or non-renewed, and not replaced with another claims made policy form with a "Retro Date" prior to the contract effective date, the Contractor must purchase "extended reporting" coverage for a minimum of one (1) year after completion of the Agreement.

### **Other Insurance Provisions**

The insurance policies required in this Agreement are to contain, or be endorsed to contain, as applicable, the following provisions:

#### **All Policies:**

1. **ACCEPTABILITY OF INSURERS:** Insurance is to be placed with insurers with a current A.M. Best's rating of no less than **A-: VII**. The County Risk Manager may waive or alter this requirement, or accept self-insurance in lieu of any required policy of insurance if, in the opinion of the Risk Manager, the interests of the County and the general public are adequately protected.
2. **MAINTENANCE OF INSURANCE COVERAGE:** The Contractor shall maintain all insurance coverage in place at all times and provide the County with evidence of each policy's renewal ten (10) days in advance of its anniversary date. Each insurance policy required by this Agreement shall be endorsed to state that coverage shall not be canceled by either party except after thirty (30) days' written notice for cancellation or if non-renewal has been given to the County. For non-payment of premium 10 days prior written notice of cancellation is required.

### **Commercial General or Garage Liability and/or Commercial Automobile Liability:**

1. **ADDITIONAL INSURED STATUS:** The County, its officers, directors, officials, employees, and volunteers are to be endorsed as additional insureds as respects: liability arising out of activities performed by or on behalf of the Contractor; products and completed operations of the Contractor; premises owned, occupied or used by the Contractor; or automobiles owned, Assigned, hired or borrowed by the Contractor. The coverage shall contain no endorsed limitations on the scope of protection afforded to the County, its officers, directors, officials, employees, or volunteers.

#### **Send original certificate to the Additional Insured:**

County of Sacramento Department of Airports  
Attn: Airport Properties and Commercial Development  
6900 Airport Boulevard  
Sacramento, CA 95837

2. CIVIL CODE PROVISION: Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under Subdivision (b) of Section 2782 of the Civil Code.
3. PRIMARY INSURANCE: For any claims related to this agreement, the Contractor's insurance coverage shall be endorsed to be primary insurance as respects the County, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the County, its officers, directors, officials, employees, or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.
4. SEVERABILITY OF INTEREST: The Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
5. SUBCONTRACTORS and SUPPLIERS: Contractor shall be responsible for the acts and omissions of all its subcontractors and suppliers of any tier and shall require all its subcontractors and suppliers to maintain adequate insurance as required in this agreement and name the County as additional insured on all contracts related to this Agreement and where applicable.

**Professional Liability:**

PROFESSIONAL LIABILITY PROVISION: Any professional liability or errors and omissions policy required hereunder shall apply to any claims, losses, liabilities, or damages, demands and actions arising out of or resulting from professional services provided under this Agreement.

**Workers' Compensation:**

WORKERS' COMPENSATION WAIVER OF SUBROGATION: The workers' compensation policy required hereunder shall be endorsed to state that the workers' compensation carrier waives its right of subrogation against the County, its officers, directors, officials, employees, agents or volunteers, which might arise by reason of payment under such policy in connection with performance under this Agreement by the Contractor.

**Property:**

COURSE OF CONSTRUCTION (COC) WAIVER OF SUBROGATION: Any Course of Construction (COC) policies maintained by the Contractor or Contractor's Prime Contractor in performance of the Agreement shall contain the following provisions:

1. The County shall be named as loss payee.
2. The insurer shall waive all rights of subrogation against the County.

ALL-RISK PROPERTY AND INLAND MARINE WAIVER OF SUBROGATION: Any Inland Marine insurance policies maintained by the Contractor in performance of the Agreement shall be endorsed to state that the insurer shall waive all rights of subrogation against the County.

**Notification of Claim**

If any claim for damages is filed with Contractor or if any lawsuit is instituted against Contractor, that arise out of or are in any way connected with Contractor's performance under this Agreement and that in any way, directly or indirectly, contingently or otherwise, affect or might reasonably affect County, Contractor shall give prompt and timely notice thereof to County. Notice shall be deemed prompt and timely if given within thirty (30) days following the date of receipt of a claim or ten (10) days following the date of service of process of a lawsuit.

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**EXHIBIT F**

**FAA Assurances**  
(03/2014)

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## **ASSURANCES**

### **Airport Sponsors**

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#### **A. General.**

1. These assurances shall be complied with in the performance of grant agreements for airport development, airport planning, and noise compatibility program grants for airport sponsors.
2. These assurances are required to be submitted as part of the project application by sponsors requesting funds under the provisions of Title 49, U.S.C., subtitle VII, as amended. As used herein, the term "public agency sponsor" means a public agency with control of a public-use airport; the term "private sponsor" means a private owner of a public-use airport; and the term "sponsor" includes both public agency sponsors and private sponsors.
3. Upon acceptance of this grant offer by the sponsor, these assurances are incorporated in and become part of this grant agreement.

#### **B. Duration and Applicability.**

1. **Airport development or Noise Compatibility Program Projects Undertaken by a Public Agency Sponsor.**

The terms, conditions and assurances of this grant agreement shall remain in full force and effect throughout the useful life of the facilities developed or equipment acquired for an airport development or noise compatibility program project, or throughout the useful life of the project items installed within a facility under a noise compatibility program project, but in any event not to exceed twenty (20) years from the date of acceptance of a grant offer of Federal funds for the project. However, there shall be no limit on the duration of the assurances regarding Exclusive Rights and Airport Revenue so long as the airport is used as an airport. There shall be no limit on the duration of the terms, conditions, and assurances with respect to real property acquired with federal funds. Furthermore, the duration of the Civil Rights assurance shall be specified in the assurances.

2. **Airport Development or Noise Compatibility Projects Undertaken by a Private Sponsor.**

The preceding paragraph 1 also applies to a private sponsor except that the useful life of project items installed within a facility or the useful life of the facilities developed or equipment acquired under an airport development or noise compatibility program project shall be no less than ten (10) years from the date of acceptance of Federal aid for the project.

### 3. Airport Planning Undertaken by a Sponsor.

Unless otherwise specified in this grant agreement, only Assurances 1, 2, 3, 5, 6, 13, 18, 25, 30, 32, 33, and 34 in Section C apply to planning projects. The terms, conditions, and assurances of this grant agreement shall remain in full force and effect during the life of the project; there shall be no limit on the duration of the assurances regarding Airport Revenue so long as the airport is used as an airport.

## C. Sponsor Certification.

The sponsor hereby assures and certifies, with respect to this grant that:

### 1. General Federal Requirements.

It will comply with all applicable Federal laws, regulations, executive orders, policies, guidelines, and requirements as they relate to the application, acceptance and use of Federal funds for this project including but not limited to the following:

#### Federal Legislation

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- a. Title 49, U.S.C., subtitle VII, as amended.
- b. Davis-Bacon Act - 40 U.S.C. 276(a), et seq.<sup>1</sup>
- c. Federal Fair Labor Standards Act - 29 U.S.C. 201, et seq.
- d. Hatch Act – 5 U.S.C. 1501, et seq.<sup>2</sup>
- e. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 Title 42 U.S.C. 4601, et seq.<sup>1 2</sup>
- f. National Historic Preservation Act of 1966 - Section 106 - 16 U.S.C. 470(f).<sup>1</sup>
- g. Archeological and Historic Preservation Act of 1974 - 16 U.S.C. 469 through 469c.<sup>1</sup>
- h. Native Americans Grave Repatriation Act - 25 U.S.C. Section 3001, et seq.
- i. Clean Air Act, P.L. 90-148, as amended.
- j. Coastal Zone Management Act, P.L. 93-205, as amended.
- k. Flood Disaster Protection Act of 1973 - Section 102(a) - 42 U.S.C. 4012a.<sup>1</sup>
- l. Title 49, U.S.C., Section 303, (formerly known as Section 4(f))
- m. Rehabilitation Act of 1973 - 29 U.S.C. 794.
- n. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- o. Americans with Disabilities Act of 1990, as amended, (42 U.S.C. § 12101 et seq.), prohibits discrimination on the basis of disability).
- p. Age Discrimination Act of 1975 - 42 U.S.C. 6101, et seq.
- q. American Indian Religious Freedom Act, P.L. 95-341, as amended.
- r. Architectural Barriers Act of 1968 -42 U.S.C. 4151, et seq.<sup>1</sup>
- s. Power plant and Industrial Fuel Use Act of 1978 - Section 403- 2 U.S.C. 8373.<sup>1</sup>
- t. Contract Work Hours and Safety Standards Act - 40 U.S.C. 327, et seq.<sup>1</sup>
- u. Copeland Anti-kickback Act - 18 U.S.C. 874.1
- v. National Environmental Policy Act of 1969 - 42 U.S.C. 4321, et seq.<sup>1</sup>
- w. Wild and Scenic Rivers Act, P.L. 90-542, as amended.
- x. Single Audit Act of 1984 - 31 U.S.C. 7501, et seq.<sup>2</sup>
- y. Drug-Free Workplace Act of 1988 - 41 U.S.C. 702 through 706.

- z. The Federal Funding Accountability and Transparency Act of 2006, as amended (Pub. L. 109-282, as amended by section 6202 of Pub. L. 110-252).

### **Executive Orders**

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- a. Executive Order 11246 - Equal Employment Opportunity<sup>1</sup>
- b. Executive Order 11990 - Protection of Wetlands
- c. Executive Order 11998 – Flood Plain Management
- d. Executive Order 12372 - Intergovernmental Review of Federal Programs
- e. Executive Order 12699 - Seismic Safety of Federal and Federally Assisted New Building Construction<sup>1</sup>
- f. Executive Order 12898 - Environmental Justice

### **Federal Regulations**

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- a. 2 CFR Part 180 - OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement).
- b. 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. [OMB Circular A-87 Cost Principles Applicable to Grants and Contracts with State and Local Governments, and OMB Circular A-133 - Audits of States, Local Governments, and Non-Profit Organizations].<sup>4, 5, 6</sup>
- c. 2 CFR Part 1200 – Nonprocurement Suspension and Debarment
- d. 14 CFR Part 13 - Investigative and Enforcement Procedures 14 CFR Part 16 - Rules of Practice For Federally Assisted Airport Enforcement Proceedings.
- e. 14 CFR Part 150 - Airport noise compatibility planning.
- f. 28 CFR Part 35- Discrimination on the Basis of Disability in State and Local Government Services.
- g. 28 CFR § 50.3 - U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964.
- h. 29 CFR Part 1 - Procedures for predetermination of wage rates.<sup>1</sup>
- i. 29 CFR Part 3 - Contractors and subcontractors on public building or public work financed in whole or part by loans or grants from the United States.<sup>1</sup>
- j. 29 CFR Part 5 - Labor standards provisions applicable to contracts covering federally financed and assisted construction (also labor standards provisions applicable to non-construction contracts subject to the Contract Work Hours and Safety Standards Act).<sup>1</sup>
- k. 41 CFR Part 60 - Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Federal and federally assisted contracting requirements).<sup>1</sup>
- l. 49 CFR Part 18 - Uniform administrative requirements for grants and cooperative agreements to state and local governments.<sup>3</sup>
- m. 49 CFR Part 20 - New restrictions on lobbying.
- n. 49 CFR Part 21 – Nondiscrimination in federally-assisted programs of the Department of Transportation - effectuation of Title VI of the Civil Rights Act of 1964.
- o. 49 CFR Part 23 - Participation by Disadvantage Business Enterprise in Airport Concessions.

- p. 49 CFR Part 24 – Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs.<sup>1 2</sup>
- q. 49 CFR Part 26 – Participation by Disadvantaged Business Enterprises in Department of Transportation Programs.
- r. 49 CFR Part 27 – Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance.<sup>1</sup>
- s. 49 CFR Part 28 – Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities conducted by the Department of Transportation.
- t. 49 CFR Part 30 - Denial of public works contracts to suppliers of goods and services of countries that deny procurement market access to U.S. contractors.
- u. 49 CFR Part 32 – Governmentwide Requirements for Drug-Free Workplace (Financial Assistance)
- v. 49 CFR Part 37 – Transportation Services for Individuals with Disabilities (ADA).
- w. 49 CFR Part 41 - Seismic safety of Federal and federally assisted or regulated new building construction.

### **Specific Assurances**

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Specific assurances required to be included in grant agreements by any of the above laws, regulations or circulars are incorporated by reference in this grant agreement.

### **Footnotes to Assurance C.1.**

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- <sup>1</sup> These laws do not apply to airport planning sponsors.
- <sup>2</sup> These laws do not apply to private sponsors.
- <sup>3</sup> 49 CFR Part 18 and 2 CFR Part 200 contain requirements for State and Local Governments receiving Federal assistance. Any requirement levied upon State and Local Governments by this regulation and circular shall also be applicable to private sponsors receiving Federal assistance under Title 49, United States Code.
- <sup>4</sup> On December 26, 2013 at 78 FR 78590, the Office of Management and Budget (OMB) issued the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR Part 200. 2 CFR Part 200 replaces and combines the former Uniform Administrative Requirements for Grants (OMB Circular A-102 and Circular A-110 or 2 CFR Part 215 or Circular) as well as the Cost Principles (Circulars A-21 or 2 CFR part 220; Circular A-87 or 2 CFR part 225; and A-122, 2 CFR part 230). Additionally it replaces Circular A-133 guidance on the Single Annual Audit. In accordance with 2 CFR section 200.110, the standards set forth in Part 200 which affect administration of Federal awards issued by Federal agencies become effective once implemented by Federal agencies or when any future amendment to this Part becomes final. Federal agencies, including the Department of Transportation, must implement the policies and procedures applicable to Federal awards by promulgating a regulation to be effective by December 26, 2014 unless different provisions are required by statute or approved by OMB.

<sup>5</sup> Cost principles established in 2 CFR part 200 subpart E must be used as guidelines for determining the eligibility of specific types of expenses.

<sup>6</sup> Audit requirements established in 2 CFR part 200 subpart F are the guidelines for audits.

**2. Responsibility and Authority of the Sponsor.**

a. Public Agency Sponsor:

It has legal authority to apply for this grant, and to finance and carry out the proposed project; that a resolution, motion or similar action has been duly adopted or passed as an official act of the applicant's governing body authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.

b. Private Sponsor:

It has legal authority to apply for this grant and to finance and carry out the proposed project and comply with all terms, conditions, and assurances of this grant agreement. It shall designate an official representative and shall in writing direct and authorize that person to file this application, including all understandings and assurances contained therein; to act in connection with this application; and to provide such additional information as may be required.

**3. Sponsor Fund Availability.**

It has sufficient funds available for that portion of the project costs which are not to be paid by the United States. It has sufficient funds available to assure operation and maintenance of items funded under this grant agreement which it will own or control.

**4. Good Title.**

- a. It, a public agency or the Federal government, holds good title, satisfactory to the Secretary, to the landing area of the airport or site thereof, or will give assurance satisfactory to the Secretary that good title will be acquired.
- b. For noise compatibility program projects to be carried out on the property of the sponsor, it holds good title satisfactory to the Secretary to that portion of the property upon which Federal funds will be expended or will give assurance to the Secretary that good title will be obtained.

**5. Preserving Rights and Powers.**

- a. It will not take or permit any action which would operate to deprive it of any of the rights and powers necessary to perform any or all of the terms, conditions, and assurances in this grant agreement without the written approval of the Secretary, and will act promptly to acquire, extinguish or modify any outstanding rights or claims of right of others which would interfere with such performance by the sponsor. This shall be done in a manner acceptable to the Secretary.

- b. It will not sell, lease, encumber, or otherwise transfer or dispose of any part of its title or other interests in the property shown on Exhibit A to this application or, for a noise compatibility program project, that portion of the property upon which Federal funds have been expended, for the duration of the terms, conditions, and assurances in this grant agreement without approval by the Secretary. If the transferee is found by the Secretary to be eligible under Title 49, United States Code, to assume the obligations of this grant agreement and to have the power, authority, and financial resources to carry out all such obligations, the sponsor shall insert in the contract or document transferring or disposing of the sponsor's interest, and make binding upon the transferee all of the terms, conditions, and assurances contained in this grant agreement.
- c. For all noise compatibility program projects which are to be carried out by another unit of local government or are on property owned by a unit of local government other than the sponsor, it will enter into an agreement with that government. Except as otherwise specified by the Secretary, that agreement shall obligate that government to the same terms, conditions, and assurances that would be applicable to it if it applied directly to the FAA for a grant to undertake the noise compatibility program project. That agreement and changes thereto must be satisfactory to the Secretary. It will take steps to enforce this agreement against the local government if there is substantial non-compliance with the terms of the agreement.
- d. For noise compatibility program projects to be carried out on privately owned property, it will enter into an agreement with the owner of that property which includes provisions specified by the Secretary. It will take steps to enforce this agreement against the property owner whenever there is substantial non-compliance with the terms of the agreement.
- e. If the sponsor is a private sponsor, it will take steps satisfactory to the Secretary to ensure that the airport will continue to function as a public-use airport in accordance with these assurances for the duration of these assurances.
- f. If an arrangement is made for management and operation of the airport by any agency or person other than the sponsor or an employee of the sponsor, the sponsor will reserve sufficient rights and authority to insure that the airport will be operated and maintained in accordance Title 49, United States Code, the regulations and the terms, conditions and assurances in this grant agreement and shall insure that such arrangement also requires compliance therewith.
- g. Sponsors of commercial service airports will not permit or enter into any arrangement that results in permission for the owner or tenant of a property used as a residence, or zoned for residential use, to taxi an aircraft between that property and any location on airport. Sponsors of general aviation airports entering into any arrangement that results in permission for the owner of residential real property adjacent to or near the airport must comply with the requirements of Sec. 136 of Public Law 112-95 and the sponsor assurances.

**6. Consistency with Local Plans.**

The project is reasonably consistent with plans (existing at the time of submission of this application) of public agencies that are authorized by the State in which the project is located to plan for the development of the area surrounding the airport.

**7. Consideration of Local Interest.**

It has given fair consideration to the interest of communities in or near where the project may be located.

**8. Consultation with Users.**

In making a decision to undertake any airport development project under Title 49, United States Code, it has undertaken reasonable consultations with affected parties using the airport at which project is proposed.

**9. Public Hearings.**

In projects involving the location of an airport, an airport runway, or a major runway extension, it has afforded the opportunity for public hearings for the purpose of considering the economic, social, and environmental effects of the airport or runway location and its consistency with goals and objectives of such planning as has been carried out by the community and it shall, when requested by the Secretary, submit a copy of the transcript of such hearings to the Secretary. Further, for such projects, it has on its management board either voting representation from the communities where the project is located or has advised the communities that they have the right to petition the Secretary concerning a proposed project.

**10. Metropolitan Planning Organization.**

In projects involving the location of an airport, an airport runway, or a major runway extension at a medium or large hub airport, the sponsor has made available to and has provided upon request to the metropolitan planning organization in the area in which the airport is located, if any, a copy of the proposed amendment to the airport layout plan to depict the project and a copy of any airport master plan in which the project is described or depicted.

**11. Pavement Preventive Maintenance.**

With respect to a project approved after January 1, 1995, for the replacement or reconstruction of pavement at the airport, it assures or certifies that it has implemented an effective airport pavement maintenance-management program and it assures that it will use such program for the useful life of any pavement constructed, reconstructed or repaired with Federal financial assistance at the airport. It will provide such reports on pavement condition and pavement management programs as the Secretary determines may be useful.

**12. Terminal Development Prerequisites.**

For projects which include terminal development at a public use airport, as defined in Title 49, it has, on the date of submittal of the project grant application, all the safety equipment required for certification of such airport under section 44706 of Title 49, United States Code, and all the security equipment required by rule or regulation, and

has provided for access to the passenger enplaning and deplaning area of such airport to passengers enplaning and deplaning from aircraft other than air carrier aircraft.

**13. Accounting System, Audit, and Record Keeping Requirements.**

- a. It shall keep all project accounts and records which fully disclose the amount and disposition by the recipient of the proceeds of this grant, the total cost of the project in connection with which this grant is given or used, and the amount or nature of that portion of the cost of the project supplied by other sources, and such other financial records pertinent to the project. The accounts and records shall be kept in accordance with an accounting system that will facilitate an effective audit in accordance with the Single Audit Act of 1984.
- b. It shall make available to the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, for the purpose of audit and examination, any books, documents, papers, and records of the recipient that are pertinent to this grant. The Secretary may require that an appropriate audit be conducted by a recipient. In any case in which an independent audit is made of the accounts of a sponsor relating to the disposition of the proceeds of a grant or relating to the project in connection with which this grant was given or used, it shall file a certified copy of such audit with the Comptroller General of the United States not later than six (6) months following the close of the fiscal year for which the audit was made.

**14. Minimum Wage Rates.**

It shall include, in all contracts in excess of \$2,000 for work on any projects funded under this grant agreement which involve labor, provisions establishing minimum rates of wages, to be predetermined by the Secretary of Labor, in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5), which contractors shall pay to skilled and unskilled labor, and such minimum rates shall be stated in the invitation for bids and shall be included in proposals or bids for the work.

**15. Veteran's Preference.**

It shall include in all contracts for work on any project funded under this grant agreement which involve labor, such provisions as are necessary to insure that, in the employment of labor (except in executive, administrative, and supervisory positions), preference shall be given to Vietnam era veterans, Persian Gulf veterans, Afghanistan-Iraq war veterans, disabled veterans, and small business concerns owned and controlled by disabled veterans as defined in Section 47112 of Title 49, United States Code. However, this preference shall apply only where the individuals are available and qualified to perform the work to which the employment relates.

**16. Conformity to Plans and Specifications.**

It will execute the project subject to plans, specifications, and schedules approved by the Secretary. Such plans, specifications, and schedules shall be submitted to the Secretary prior to commencement of site preparation, construction, or other performance under this grant agreement, and, upon approval of the Secretary, shall be incorporated into this grant agreement. Any modification to the approved plans,

specifications, and schedules shall also be subject to approval of the Secretary, and incorporated into this grant agreement.

**17. Construction Inspection and Approval.**

It will provide and maintain competent technical supervision at the construction site throughout the project to assure that the work conforms to the plans, specifications, and schedules approved by the Secretary for the project. It shall subject the construction work on any project contained in an approved project application to inspection and approval by the Secretary and such work shall be in accordance with regulations and procedures prescribed by the Secretary. Such regulations and procedures shall require such cost and progress reporting by the sponsor or sponsors of such project as the Secretary shall deem necessary.

**18. Planning Projects.**

In carrying out planning projects:

- a. It will execute the project in accordance with the approved program narrative contained in the project application or with the modifications similarly approved.
- b. It will furnish the Secretary with such periodic reports as required pertaining to the planning project and planning work activities.
- c. It will include in all published material prepared in connection with the planning project a notice that the material was prepared under a grant provided by the United States.
- d. It will make such material available for examination by the public, and agrees that no material prepared with funds under this project shall be subject to copyright in the United States or any other country.
- e. It will give the Secretary unrestricted authority to publish, disclose, distribute, and otherwise use any of the material prepared in connection with this grant.
- f. It will grant the Secretary the right to disapprove the sponsor's employment of specific consultants and their subcontractors to do all or any part of this project as well as the right to disapprove the proposed scope and cost of professional services.
- g. It will grant the Secretary the right to disapprove the use of the sponsor's employees to do all or any part of the project.
- h. It understands and agrees that the Secretary's approval of this project grant or the Secretary's approval of any planning material developed as part of this grant does not constitute or imply any assurance or commitment on the part of the Secretary to approve any pending or future application for a Federal airport grant.

**19. Operation and Maintenance.**

- a. The airport and all facilities which are necessary to serve the aeronautical users of the airport, other than facilities owned or controlled by the United States, shall be operated at all times in a safe and serviceable condition and in accordance with the minimum standards as may be required or prescribed by applicable Federal,

state and local agencies for maintenance and operation. It will not cause or permit any activity or action thereon which would interfere with its use for airport purposes. It will suitably operate and maintain the airport and all facilities thereon or connected therewith, with due regard to climatic and flood conditions. Any proposal to temporarily close the airport for non-aeronautical purposes must first be approved by the Secretary. In furtherance of this assurance, the sponsor will have in effect arrangements for-

- 1) Operating the airport's aeronautical facilities whenever required;
  - 2) Promptly marking and lighting hazards resulting from airport conditions, including temporary conditions; and
  - 3) Promptly notifying airmen of any condition affecting aeronautical use of the airport. Nothing contained herein shall be construed to require that the airport be operated for aeronautical use during temporary periods when snow, flood or other climatic conditions interfere with such operation and maintenance. Further, nothing herein shall be construed as requiring the maintenance, repair, restoration, or replacement of any structure or facility which is substantially damaged or destroyed due to an act of God or other condition or circumstance beyond the control of the sponsor.
- b. It will suitably operate and maintain noise compatibility program items that it owns or controls upon which Federal funds have been expended.

#### **20. Hazard Removal and Mitigation.**

It will take appropriate action to assure that such terminal airspace as is required to protect instrument and visual operations to the airport (including established minimum flight altitudes) will be adequately cleared and protected by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards.

#### **21. Compatible Land Use.**

It will take appropriate action, to the extent reasonable, including the adoption of zoning laws, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft. In addition, if the project is for noise compatibility program implementation, it will not cause or permit any change in land use, within its jurisdiction, that will reduce its compatibility, with respect to the airport, of the noise compatibility program measures upon which Federal funds have been expended.

#### **22. Economic Nondiscrimination.**

- a. It will make the airport available as an airport for public use on reasonable terms and without unjust discrimination to all types, kinds and classes of aeronautical activities, including commercial aeronautical activities offering services to the public at the airport.
- b. In any agreement, contract, lease, or other arrangement under which a right or privilege at the airport is granted to any person, firm, or corporation to conduct or

to engage in any aeronautical activity for furnishing services to the public at the airport, the sponsor will insert and enforce provisions requiring the contractor to-

- 1) furnish said services on a reasonable, and not unjustly discriminatory, basis to all users thereof, and
  - 2) charge reasonable, and not unjustly discriminatory, prices for each unit or service, provided that the contractor may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.
- c. Each fixed-based operator at the airport shall be subject to the same rates, fees, rentals, and other charges as are uniformly applicable to all other fixed-based operators making the same or similar uses of such airport and utilizing the same or similar facilities.
  - d. Each air carrier using such airport shall have the right to service itself or to use any fixed-based operator that is authorized or permitted by the airport to serve any air carrier at such airport.
  - e. Each air carrier using such airport (whether as a tenant, non-tenant, or subtenant of another air carrier tenant) shall be subject to such nondiscriminatory and substantially comparable rules, regulations, conditions, rates, fees, rentals, and other charges with respect to facilities directly and substantially related to providing air transportation as are applicable to all such air carriers which make similar use of such airport and utilize similar facilities, subject to reasonable classifications such as tenants or non-tenants and signatory carriers and non-signatory carriers. Classification or status as tenant or signatory shall not be unreasonably withheld by any airport provided an air carrier assumes obligations substantially similar to those already imposed on air carriers in such classification or status.
  - f. It will not exercise or grant any right or privilege which operates to prevent any person, firm, or corporation operating aircraft on the airport from performing any services on its own aircraft with its own employees [including, but not limited to maintenance, repair, and fueling] that it may choose to perform.
  - g. In the event the sponsor itself exercises any of the rights and privileges referred to in this assurance, the services involved will be provided on the same conditions as would apply to the furnishing of such services by commercial aeronautical service providers authorized by the sponsor under these provisions.
  - h. The sponsor may establish such reasonable, and not unjustly discriminatory, conditions to be met by all users of the airport as may be necessary for the safe and efficient operation of the airport.
  - i. The sponsor may prohibit or limit any given type, kind or class of aeronautical use of the airport if such action is necessary for the safe operation of the airport or necessary to serve the civil aviation needs of the public.

### **23. Exclusive Rights.**

It will permit no exclusive right for the use of the airport by any person providing, or intending to provide, aeronautical services to the public. For purposes of this paragraph, the providing of the services at an airport by a single fixed-based operator shall not be construed as an exclusive right if both of the following apply:

- a. It would be unreasonably costly, burdensome, or impractical for more than one fixed-based operator to provide such services, and
- b. If allowing more than one fixed-based operator to provide such services would require the reduction of space leased pursuant to an existing agreement between such single fixed-based operator and such airport. It further agrees that it will not, either directly or indirectly, grant or permit any person, firm, or corporation, the exclusive right at the airport to conduct any aeronautical activities, including, but not limited to charter flights, pilot training, aircraft rental and sightseeing, aerial photography, crop dusting, aerial advertising and surveying, air carrier operations, aircraft sales and services, sale of aviation petroleum products whether or not conducted in conjunction with other aeronautical activity, repair and maintenance of aircraft, sale of aircraft parts, and any other activities which because of their direct relationship to the operation of aircraft can be regarded as an aeronautical activity, and that it will terminate any exclusive right to conduct an aeronautical activity now existing at such an airport before the grant of any assistance under Title 49, United States Code.

### **24. Fee and Rental Structure.**

It will maintain a fee and rental structure for the facilities and services at the airport which will make the airport as self-sustaining as possible under the circumstances existing at the particular airport, taking into account such factors as the volume of traffic and economy of collection. No part of the Federal share of an airport development, airport planning or noise compatibility project for which a grant is made under Title 49, United States Code, the Airport and Airway Improvement Act of 1982, the Federal Airport Act or the Airport and Airway Development Act of 1970 shall be included in the rate basis in establishing fees, rates, and charges for users of that airport.

### **25. Airport Revenues.**

- a. All revenues generated by the airport and any local taxes on aviation fuel established after December 30, 1987, will be expended by it for the capital or operating costs of the airport; the local airport system; or other local facilities which are owned or operated by the owner or operator of the airport and which are directly and substantially related to the actual air transportation of passengers or property; or for noise mitigation purposes on or off the airport. The following exceptions apply to this paragraph:
  - 1) If covenants or assurances in debt obligations issued before September 3, 1982, by the owner or operator of the airport, or provisions enacted before September 3, 1982, in governing statutes controlling the owner or operator's financing, provide for the use of the revenues from any of the airport owner or

operator's facilities, including the airport, to support not only the airport but also the airport owner or operator's general debt obligations or other facilities, then this limitation on the use of all revenues generated by the airport (and, in the case of a public airport, local taxes on aviation fuel) shall not apply.

- 2) If the Secretary approves the sale of a privately owned airport to a public sponsor and provides funding for any portion of the public sponsor's acquisition of land, this limitation on the use of all revenues generated by the sale shall not apply to certain proceeds from the sale. This is conditioned on repayment to the Secretary by the private owner of an amount equal to the remaining unamortized portion (amortized over a 20-year period) of any airport improvement grant made to the private owner for any purpose other than land acquisition on or after October 1, 1996, plus an amount equal to the federal share of the current fair market value of any land acquired with an airport improvement grant made to that airport on or after October 1, 1996.
  - 3) Certain revenue derived from or generated by mineral extraction, production, lease, or other means at a general aviation airport (as defined at Section 47102 of title 49 United States Code), if the FAA determines the airport sponsor meets the requirements set forth in Sec. 813 of Public Law 112-95.
- b. As part of the annual audit required under the Single Audit Act of 1984, the sponsor will direct that the audit will review, and the resulting audit report will provide an opinion concerning, the use of airport revenue and taxes in paragraph (a), and indicating whether funds paid or transferred to the owner or operator are paid or transferred in a manner consistent with Title 49, United States Code and any other applicable provision of law, including any regulation promulgated by the Secretary or Administrator.
  - c. Any civil penalties or other sanctions will be imposed for violation of this assurance in accordance with the provisions of Section 47107 of Title 49, United States Code.

## **26. Reports and Inspections.**

It will:

- a. submit to the Secretary such annual or special financial and operations reports as the Secretary may reasonably request and make such reports available to the public; make available to the public at reasonable times and places a report of the airport budget in a format prescribed by the Secretary;
- b. for airport development projects, make the airport and all airport records and documents affecting the airport, including deeds, leases, operation and use agreements, regulations and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request;
- c. for noise compatibility program projects, make records and documents relating to the project and continued compliance with the terms, conditions, and assurances of this grant agreement including deeds, leases, agreements, regulations, and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request; and

- d. in a format and time prescribed by the Secretary, provide to the Secretary and make available to the public following each of its fiscal years, an annual report listing in detail:
  - 1) all amounts paid by the airport to any other unit of government and the purposes for which each such payment was made; and
  - 2) all services and property provided by the airport to other units of government and the amount of compensation received for provision of each such service and property.

**27. Use by Government Aircraft.**

It will make available all of the facilities of the airport developed with Federal financial assistance and all those usable for landing and takeoff of aircraft to the United States for use by Government aircraft in common with other aircraft at all times without charge, except, if the use by Government aircraft is substantial, charge may be made for a reasonable share, proportional to such use, for the cost of operating and maintaining the facilities used. Unless otherwise determined by the Secretary, or otherwise agreed to by the sponsor and the using agency, substantial use of an airport by Government aircraft will be considered to exist when operations of such aircraft are in excess of those which, in the opinion of the Secretary, would unduly interfere with use of the landing areas by other authorized aircraft, or during any calendar month that –

- a. Five (5) or more Government aircraft are regularly based at the airport or on land adjacent thereto; or
- b. The total number of movements (counting each landing as a movement) of Government aircraft is 300 or more, or the gross accumulative weight of Government aircraft using the airport (the total movement of Government aircraft multiplied by gross weights of such aircraft) is in excess of five million pounds.

**28. Land for Federal Facilities.**

It will furnish without cost to the Federal Government for use in connection with any air traffic control or air navigation activities, or weather-reporting and communication activities related to air traffic control, any areas of land or water, or estate therein, or rights in buildings of the sponsor as the Secretary considers necessary or desirable for construction, operation, and maintenance at Federal expense of space or facilities for such purposes. Such areas or any portion thereof will be made available as provided herein within four months after receipt of a written request from the Secretary.

**29. Airport Layout Plan.**

- a. It will keep up to date at all times an airport layout plan of the airport showing
  - 1) boundaries of the airport and all proposed additions thereto, together with the boundaries of all offsite areas owned or controlled by the sponsor for airport purposes and proposed additions thereto;
  - 2) the location and nature of all existing and proposed airport facilities and structures (such as runways, taxiways, aprons, terminal buildings, hangars and

roads), including all proposed extensions and reductions of existing airport facilities;

- 3) the location of all existing and proposed nonaviation areas and of all existing improvements thereon; and
  - 4) all proposed and existing access points used to taxi aircraft across the airport's property boundary. Such airport layout plans and each amendment, revision, or modification thereof, shall be subject to the approval of the Secretary which approval shall be evidenced by the signature of a duly authorized representative of the Secretary on the face of the airport layout plan. The sponsor will not make or permit any changes or alterations in the airport or any of its facilities which are not in conformity with the airport layout plan as approved by the Secretary and which might, in the opinion of the Secretary, adversely affect the safety, utility or efficiency of the airport.
- b. If a change or alteration in the airport or the facilities is made which the Secretary determines adversely affects the safety, utility, or efficiency of any federally owned, leased, or funded property on or off the airport and which is not in conformity with the airport layout plan as approved by the Secretary, the owner or operator will, if requested, by the Secretary (1) eliminate such adverse effect in a manner approved by the Secretary; or (2) bear all costs of relocating such property (or replacement thereof) to a site acceptable to the Secretary and all costs of restoring such property (or replacement thereof) to the level of safety, utility, efficiency, and cost of operation existing before the unapproved change in the airport or its facilities except in the case of a relocation or replacement of an existing airport facility due to a change in the Secretary's design standards beyond the control of the airport sponsor.

### **30. Civil Rights.**

It will promptly take any measures necessary to ensure that no person in the United States shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in any activity conducted with, or benefiting from, funds received from this grant.

- a. Using the definitions of activity, facility and program as found and defined in §§ 21.23 (b) and 21.23 (e) of 49 CFR § 21, the sponsor will facilitate all programs, operate all facilities, or conduct all programs in compliance with all non-discrimination requirements imposed by, or pursuant to these assurances.
- b. Applicability
  - 1) Programs and Activities. If the sponsor has received a grant (or other federal assistance) for any of the sponsor's program or activities, these requirements extend to all of the sponsor's programs and activities.
  - 2) Facilities. Where it receives a grant or other federal financial assistance to construct, expand, renovate, remodel, alter or acquire a facility, or part of a facility, the assurance extends to the entire facility and facilities operated in connection therewith.

- 3) Real Property. Where the sponsor receives a grant or other Federal financial assistance in the form of, or for the acquisition of real property or an interest in real property, the assurance will extend to rights to space on, over, or under such property.

c. Duration.

The sponsor agrees that it is obligated to this assurance for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the assurance obligates the sponsor, or any transferee for the longer of the following periods:

- 1) So long as the airport is used as an airport, or for another purpose involving the provision of similar services or benefits; or
- 2) So long as the sponsor retains ownership or possession of the property.

d. Required Solicitation Language. It will include the following notification in all solicitations for bids, Requests For Proposals for work, or material under this grant agreement and in all proposals for agreements, including airport concessions, regardless of funding source:

“The **(Name of Sponsor)**, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises and airport concession disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.”

e. Required Contract Provisions.

- 1) It will insert the non-discrimination contract clauses requiring compliance with the acts and regulations relative to non-discrimination in Federally-assisted programs of the DOT, and incorporating the acts and regulations into the contracts by reference in every contract or agreement subject to the non-discrimination in Federally-assisted programs of the DOT acts and regulations.
- 2) It will include a list of the pertinent non-discrimination authorities in every contract that is subject to the non-discrimination acts and regulations.
- 3) It will insert non-discrimination contract clauses as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a sponsor.
- 4) It will insert non-discrimination contract clauses prohibiting discrimination on the basis of race, color, national origin, creed, sex, age, or handicap as a

covenant running with the land, in any future deeds, leases, license, permits, or similar instruments entered into by the sponsor with other parties:

- a) For the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
  - b) For the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.
- f. It will provide for such methods of administration for the program as are found by the Secretary to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the acts, the regulations, and this assurance.
- g. It agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the acts, the regulations, and this assurance.

### **31. Disposal of Land.**

- a. For land purchased under a grant for airport noise compatibility purposes, including land serving as a noise buffer, it will dispose of the land, when the land is no longer needed for such purposes, at fair market value, at the earliest practicable time. That portion of the proceeds of such disposition which is proportionate to the United States' share of acquisition of such land will be, at the discretion of the Secretary, (1) reinvested in another project at the airport, or (2) transferred to another eligible airport as prescribed by the Secretary. The Secretary shall give preference to the following, in descending order, (1) reinvestment in an approved noise compatibility project, (2) reinvestment in an approved project that is eligible for grant funding under Section 47117(e) of title 49 United States Code, (3) reinvestment in an approved airport development project that is eligible for grant funding under Sections 47114, 47115, or 47117 of title 49 United States Code, (4) transferred to an eligible sponsor of another public airport to be reinvested in an approved noise compatibility project at that airport, and (5) paid to the Secretary for deposit in the Airport and Airway Trust Fund. If land acquired under a grant for noise compatibility purposes is leased at fair market value and consistent with noise buffering purposes, the lease will not be considered a disposal of the land. Revenues derived from such a lease may be used for an approved airport development project that would otherwise be eligible for grant funding or any permitted use of airport revenue.
- b. For land purchased under a grant for airport development purposes (other than noise compatibility), it will, when the land is no longer needed for airport purposes, dispose of such land at fair market value or make available to the Secretary an amount equal to the United States' proportionate share of the fair market value of the land. That portion of the proceeds of such disposition which is proportionate to the United States' share of the cost of acquisition of such land will, (1) upon application to the Secretary, be reinvested or transferred to another

eligible airport as prescribed by the Secretary. The Secretary shall give preference to the following, in descending order: (1) reinvestment in an approved noise compatibility project, (2) reinvestment in an approved project that is eligible for grant funding under Section 47117(e) of title 49 United States Code, (3) reinvestment in an approved airport development project that is eligible for grant funding under Sections 47114, 47115, or 47117 of title 49 United States Code, (4) transferred to an eligible sponsor of another public airport to be reinvested in an approved noise compatibility project at that airport, and (5) paid to the Secretary for deposit in the Airport and Airway Trust Fund.

- c. Land shall be considered to be needed for airport purposes under this assurance if (1) it may be needed for aeronautical purposes (including runway protection zones) or serve as noise buffer land, and (2) the revenue from interim uses of such land contributes to the financial self-sufficiency of the airport. Further, land purchased with a grant received by an airport operator or owner before December 31, 1987, will be considered to be needed for airport purposes if the Secretary or Federal agency making such grant before December 31, 1987, was notified by the operator or owner of the uses of such land, did not object to such use, and the land continues to be used for that purpose, such use having commenced no later than December 15, 1989.
- d. Disposition of such land under (a) (b) or (c) will be subject to the retention or reservation of any interest or right therein necessary to ensure that such land will only be used for purposes which are compatible with noise levels associated with operation of the airport.

**32. Engineering and Design Services.**

It will award each contract, or sub-contract for program management, construction management, planning studies, feasibility studies, architectural services, preliminary engineering, design, engineering, surveying, mapping or related services with respect to the project in the same manner as a contract for architectural and engineering services is negotiated under Title IX of the Federal Property and Administrative Services Act of 1949 or an equivalent qualifications-based requirement prescribed for or by the sponsor of the airport.

**33. Foreign Market Restrictions.**

It will not allow funds provided under this grant to be used to fund any project which uses any product or service of a foreign country during the period in which such foreign country is listed by the United States Trade Representative as denying fair and equitable market opportunities for products and suppliers of the United States in procurement and construction.

**34. Policies, Standards, and Specifications.**

It will carry out the project in accordance with policies, standards, and specifications approved by the Secretary including but not limited to the advisory circulars listed in the Current FAA Advisory Circulars for AIP projects, dated \_\_\_\_\_ (the latest approved version as of this grant offer) and included in this grant, and in accordance

with applicable state policies, standards, and specifications approved by the Secretary.

**35. Relocation and Real Property Acquisition.**

- a. It will be guided in acquiring real property, to the greatest extent practicable under State law, by the land acquisition policies in Subpart B of 49 CFR Part 24 and will pay or reimburse property owners for necessary expenses as specified in Subpart B.
- b. It will provide a relocation assistance program offering the services described in Subpart C and fair and reasonable relocation payments and assistance to displaced persons as required in Subpart D and E of 49 CFR Part 24.
- c. It will make available within a reasonable period of time prior to displacement, comparable replacement dwellings to displaced persons in accordance with Subpart E of 49 CFR Part 24.

**36. Access By Intercity Buses.**

The airport owner or operator will permit, to the maximum extent practicable, intercity buses or other modes of transportation to have access to the airport; however, it has no obligation to fund special facilities for intercity buses or for other modes of transportation.

**37. Disadvantaged Business Enterprises.**

The sponsor shall not discriminate on the basis of race, color, national origin or sex in the award and performance of any DOT-assisted contract covered by 49 CFR Part 26, or in the award and performance of any concession activity contract covered by 49 CFR Part 23. In addition, the sponsor shall not discriminate on the basis of race, color, national origin or sex in the administration of its DBE and ACDBE programs or the requirements of 49 CFR Parts 23 and 26. The sponsor shall take all necessary and reasonable steps under 49 CFR Parts 23 and 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts, and/or concession contracts. The sponsor's DBE and ACDBE programs, as required by 49 CFR Parts 26 and 23, and as approved by DOT, are incorporated by reference in this agreement. Implementation of these programs is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the sponsor of its failure to carry out its approved program, the Department may impose sanctions as provided for under Parts 26 and 23 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1936 (31 U.S.C. 3801).

**38. Hangar Construction.**

If the airport owner or operator and a person who owns an aircraft agree that a hangar is to be constructed at the airport for the aircraft at the aircraft owner's expense, the airport owner or operator will grant to the aircraft owner for the hangar a long term lease that is subject to such terms and conditions on the hangar as the airport owner or operator may impose.

### **39. Competitive Access.**

- a. If the airport owner or operator of a medium or large hub airport (as defined in section 47102 of title 49, U.S.C.) has been unable to accommodate one or more requests by an air carrier for access to gates or other facilities at that airport in order to allow the air carrier to provide service to the airport or to expand service at the airport, the airport owner or operator shall transmit a report to the Secretary that-
  - 1) Describes the requests;
  - 2) Provides an explanation as to why the requests could not be accommodated; and
  - 3) Provides a time frame within which, if any, the airport will be able to accommodate the requests.
- b. Such report shall be due on either February 1 or August 1 of each year if the airport has been unable to accommodate the request(s) in the six month period prior to the applicable due date.

## EXHIBIT G

### FAA Contract Provisions

#### A. GENERAL CIVIL RIGHTS PROVISIONS

The Contractor agrees to comply with pertinent statutes, Executive Orders, and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance. If the Contractor transfers its obligation to another, the transferee is obligated in the same manner as the County.

This provision obligates the Contractor for the period during which the property is owned, used or possessed by the Contractor and the airport remains obligated to the Federal Aviation Administration. This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

#### B. TITLE VI SOLICITATION NOTICE

The County of Sacramento Department of Airports, in accordance with the provisions of Title VI of the A6. A6.3.1 Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that in any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

#### C. COMPLIANCE WITH NONDISCRIMINATION REQUIREMENTS

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

1. Compliance with Regulations: The contractor (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts And Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. Non-discrimination: The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not

participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.

3. Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Nondiscrimination Acts And Authorities on the grounds of race, color, or national origin.

4. Information and Reports: The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts And Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

5. Sanctions for Noncompliance: In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to: a) Withholding payments to the contractor under the contract until the contractor complies; and/or b) canceling, terminating, or suspending a contract, in whole or in part.

6. Incorporation of Provisions: The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the sponsor to enter into any litigation to protect the interests of the sponsor. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

#### **D. TITLE VI LIST OF PERTINENT NONDISCRIMINATION ACTS AND AUTHORITIES**

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination In Federally-Assisted Programs of The Department of Transportation—Effectuation of Title VI of The Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);

- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100); and
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

#### **E. FEDERAL FAIR LABOR STANDARDS ACT**

All contracts and subcontracts that result from this solicitation incorporate by reference the provisions of 29 CFR Part 201, the Federal Fair Labor Standards Act (FLSA), with the same force and effect as if given in full text. The FLSA sets minimum wage, overtime pay, recordkeeping, and child labor standards for full and part time workers. The [contractor | consultant] has full responsibility to monitor compliance to the referenced statute or regulation. The [contractor | consultant] must address any claims or disputes that arise from this requirement directly with the U.S. Department of Labor – Wage and Hour Division.

#### **F. OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970**

All contracts and subcontracts that result from this solicitation incorporate by reference the requirements of 29 CFR Part 1910 with the same force and effect as if given in full text. Contractor must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. The Contractor retains full responsibility to monitor its compliance and their subcontractor's compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (20 CFR Part 1910). Contractor must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration.

**EXHIBIT H**  
**Improvements**

Demolition:

Modifications:

New Construction: