

# ONTARIO INTERNATIONAL AIRPORT AUTHORITY

## COMMISSION AGENDA - REGULAR MEETING



**MAY 22, 2018 AT 3:00 P.M.**

Ontario International Airport Administration Offices  
1923 E. Avion Street, Room 100, Ontario, CA 91761

**ALAN D. WAPNER**  
President

**RONALD O. LOVERIDGE**  
Vice President

**JIM W. BOWMAN**  
Secretary

**CURT HAGMAN**  
Commissioner

**JULIA GOUW**  
Commissioner

**MARK A. THORPE**  
Chief Executive Officer

**LORI D. BALLANCE**  
General Counsel

**JEFF P. REYNOLDS**  
Treasurer

### WELCOME TO THE MEETING OF THE ONTARIO INTERNATIONAL AIRPORT AUTHORITY

- All documents for public review are on file at the Ontario International Airport Administration Offices located at 1923 E. Avion Street, Ontario, CA 91761.
- Anyone wishing to speak during public comment or on a item will be required to fill out a blue slip. Blue slips must be turned in prior to public comment beginning or before an agenda item is taken up. The Secretary/Assistant Secretary will not accept blue slips after that time.
- Comments will be limited to 3 minutes. Speakers will be alerted when they have 1-minute remaining and when their time is up. Speakers are then to return to their seats and no further comments will be permitted.
- In accordance with State Law, remarks during public comment are to be limited to subjects within the Authority's jurisdiction. Remarks on other agenda items will be limited to those items.
- Remarks from those seated or standing in the back of chambers will not be permitted. All those wishing to speak, including Commissioners and Staff, need to be recognized by the Authority President before speaking.

## ORDER OF BUSINESS

The Authority meeting begins with Closed Session and Closed Session Comment at 3:00 p.m., immediately followed by Public Comment and the Regular Meeting.

(Sign Language Interpreters, Communication Access Real-Time Transcription, Assistive Listening Devices, or other auxiliary aids and/or services may be provided upon request. To ensure availability, you are advised to make your request at least 72 hours prior to the meeting you wish to attend. Due to difficulties in securing Sign Language Interpreters, five or more business days notice is strongly recommended.)

## CALL TO ORDER (OPEN SESSION) - 3:00 P.M.

### ROLL CALL

Loveridge, Bowman, Hagman, Gouw, President Wapner

### PLEDGE OF ALLEGIANCE

## PUBLIC COMMENTS

The Public Comment portion of the Authority meeting is limited to 30 minutes with each speaker given a maximum of 3 minutes. An opportunity for further Public Comment may be given at the end of the meeting. Under provisions of the Brown Act, the Commission is prohibited from taking action on oral requests.

As previously noted -- if you wish to address the Commission, fill out one of the blue slips at the rear of the chambers and give it to the Secretary/Assistant Secretary.

## AGENDA REVIEW/ANNOUNCEMENTS

The Chief Executive Officer will go over all updated materials and correspondence received after the Agenda was distributed to ensure Commissioners have received them.

### 1. INFORMATION RELATIVE TO POSSIBLE CONFLICT OF INTEREST

Note agenda item contractors, subcontractors and agents which may require member abstentions due to conflict of interests and financial interests. Commission Member abstentions shall be stated under this item for recordation on the appropriate item.

## CONSENT CALENDAR

All matters listed under CONSENT CALENDAR will be enacted by one motion in the form listed below – there will be no separate discussion on these items prior to the time Commission votes on them, unless a member of the Commission requests a specific item be removed from the Consent Calendar for a separate vote.

Each member of the public wishing to address the Authority on items listed on the Consent Calendar will be given a total of 3 minutes.

### 2. APPROVAL OF MINUTES

Minutes for the regular meeting of the Ontario International Airport Authority on April 24, 2018, approving same as on file with the Secretary/Assistant Secretary.

### 3. BILLS/PAYROLL

Bills April 1, 2018 through April 30, 2018 and Payroll April 1, 2018 through April 30, 2018.

### 4. APPROVAL OF MEETING STIPENDS

That the Ontario International Airport Authority Commission approve meeting stipends for President Wapner and Commissioner Hagman.

### 5. AUTHORIZE THE CHIEF EXECUTIVE OFFICER TO NEGOTIATE AND EXECUTE NON-EXCLUSIVE REVOCABLE FUEL DELIVERY PERMITS BETWEEN THE ONTARIO INTERNATIONAL AIRPORT AUTHORITY AND NEW OR EXISTING FUEL DELIVERY OPERATORS AT ONTARIO INTERNATIONAL AIRPORT

That the Ontario International Airport Authority (OIAA) authorize the Chief Executive Officer to negotiate and execute Non-Exclusive Revocable Fuel Delivery Permits between the OIAA and new or existing fuel delivery operators at Ontario International Airport (ONT) for five (5)-year terms. This authorization would allow form permit agreements to be entered so that OIAA can charge fuel delivery operators a fee to deliver fuel at ONT. Currently, the OIAA charges \$0.03 per gallon to all aviation gasoline and turbine fuel delivery companies, except for deliveries to signatory air carriers and the military. Each fuel delivery permittee will be required to pay a non-refundable \$1,000 administrative fee, plus a performance guarantee of three (3) times the highest monthly amount of fuel fees, or \$5,000, whichever is greater.

### 6. AUTHORIZE THE CEO TO NEGOTIATE AND ENTER INTO A LISTING AGREEMENT WITH CBRE AS THE REAL ESTATE BROKER TO REPRESENT THE AUTHORITY IN TAKING THE APPROXIMATELY 200 ACRES OF AUTHORITY OWNED NON-AERONAUTICAL PROPERTY EAST OF HAVEN TO MARKET FOR POSSIBLE LONG-TERM LEASE

That the Ontario Airport Authority (“OIAA” or Authority”) Commission authorize the Authority CEO to negotiate and enter into a “Listing Agreement” with CBRE to represent the Authority in the listing and marketing of approximately 200 acres of Authority owned non-aeronautical property east of Haven Avenue for long-term lease and to manage a competitive selection process in order to assist staff in making a recommendation to the Commission for the selection of a lessee of such property. No negative impact on ONT finances, as any compensation of the broker will be by the lessee as part of the transaction. However, a successful selection process and entrance into a long-term lease would result in millions of dollars of annual revenue to the Authority which could be utilized for capital improvements and to reduce costs to the airlines.

## **STAFF MATTERS**

Chief Executive Officer Thorpe

## **COMMISSION MATTERS**

President Wapner

Vice President Loveridge

Secretary Bowman

Commissioner Hagman

Commissioner Gouw

## **ADJOURNMENT**

# ONTARIO INTERNATIONAL AIRPORT AUTHORITY



**DATE:** MAY 22, 2018

**SECTION:** MINUTE ACTION

**SUBJECT:** RELATIVE TO POSSIBLE CONFLICT OF INTEREST

**RECOMMENDED ACTION(S):** Note agenda items and contractors/subcontractors, which may require member abstentions due to possible conflicts of interest.

**BACKGROUND:** In accordance with California Government Code 84308, members of the Ontario International Airport Authority may not participate in any action concerning a contract where they have received a campaign contribution of more than \$250 in the prior twelve (12) months and from an entity or individual if the member knows or has reason to know that the participant has a financial interest, except for the initial award of a competitively bid public works contract. This agenda contains recommendations for action relative to the following contractors:

Item No	Principals & Agents	Subcontractors
Item No. 08	CBRE Real Estate Broker	<ul style="list-style-type: none"><li>• None</li></ul>

**STAFF MEMBER PRESENTING:** Claudia Y. Isbell, Board Clerk

Department: Clerk's Office

Submitted to OIAA: May 22, 2018

Approved: \_\_\_\_\_

Continued to: \_\_\_\_\_

Denied: \_\_\_\_\_

Chief Executive  
Officer Approval: \_\_\_\_\_

Item No. 01

**ONTARIO INTERNATIONAL AIRPORT AUTHORITY  
REGULAR COMMISSION MEETING  
MINUTES  
TUESDAY, APRIL 24, 2018  
(Not Official Until Approved by OIAA Commission)**

A regular meeting of the Ontario International Airport Authority was held on Tuesday, April 24, 2018, at 1923 E. Avion Street, Room 100, Ontario, California.

Notice of said meeting was duly given in the time and manner prescribed by law.

**CALL TO ORDER**

President Wapner called the Ontario International Airport Authority Commission meeting to order at 3:00 p.m.

**ROLL CALL**

PRESENT: Commissioners: Jim W. Bowman, Curt Hagman, Julia Gouw, Ronald O. Loveridge and Alan D. Wapner.

ABSENT: Commissioners: None.

Also present were: Chief Executive Officer Mark A. Thorpe, General Counsel Lori D. Ballance, and Assistant Secretary Claudia Y. Isbell.

Hearing no requests to speak, President Wapner recessed the regular meeting of the Ontario International Airport Authority to Closed Session at 3:00 p.m. with all Commissioners in attendance.

**CLOSED SESSION**

- GC 54956.9(d)(2), CONFERENCE WITH LEGAL COUNSEL, ANTICIPATED LITIGATION: *One (1) case.*

The Ontario International Airport Authority Commission regular meeting was reconvened in public session at 3:13 p.m.

**CLOSED SESSION REPORT**

President Wapner announced there was no reportable action.

**PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was led by Secretary Bowman.

**PUBLIC COMMENT**

There were no public comments.

## **POSSIBLE CONFLICT OF INTEREST ISSUES**

### **1. INFORMATION RELATIVE TO POSSIBLE CONFLICT OF INTEREST**

Note: agenda item contractors, subcontractors and agents which may require member abstentions due to conflict of interests and financial interests. Commission Member abstentions shall be stated under this item for recordation on the appropriate item.

There were no conflict of interests reported.

**MOTION:** Moved by Commissioner Hagman, seconded by Secretary Bowman and carried by a unanimous vote of 5-0, to approve the Consent Calendar as presented.

## **CONSENT CALENDAR**

### **2. APPROVAL OF MINUTES**

Approved minutes for the special meeting of the Ontario International Airport Authority on March 23, 2018, and the cancelled meeting on March 27, 2018, approving same as on file with the Secretary/Assistant Secretary.

### **3. BILLS/PAYROLL**

Approved bills for March 1, 2018 through March 31, 2018 and Payroll March 1, 2018 through March 31, 2018.

### **4. APPROVAL OF MEETING STIPENDS**

The Ontario International Airport Authority Commission approved meeting stipends for President Wapner and Commissioner Hagman.

### **5. ADOPTION THE ONTARIO INTERNATIONAL AIRPORT AUTHORITY NATIONAL ENVIRONMENTAL POLICY ACT (NEPA) CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) GUIDELINES**

The Ontario International Airport Authority (OIAA) adopted the OIAA NEPA/CEQA Guidelines. The purpose of these Guidelines is to provide objectives, criteria, and procedures for the environmental evaluation and approval for projects and the preparation of documents to support and comply with NEPA and CEQA. The OIAA NEPA/CEQA Guidelines are intended to supplement, and to be used in conjunction with, these federal and state laws and policies for practical application to projects on and within Ontario International Airport (ONT) property.

**6. APPROVAL OF AN AGREEMENT BETWEEN THE ONTARIO INTERNATIONAL AIRPORT AUTHORITY AND THE SAN BERNARDINO COUNTY FOR AIRPORT RELATED MARKETING PROJECTS**

The Ontario International Airport Authority (OIAA) approved an agreement between the OIAA and the San Bernardino County for \$250,000 for a China Airlines regional market media plan to promote ONT as a gateway to Southern California. If approved the agreement between the OIAA and the San Bernardino County will be effective upon approval and execution by both parties and terminating on December 31, 2018.

**7. AUTHORIZE THE CHIEF EXECUTIVE OFFICER TO NEGOTIATE AND EXECUTE OPERATING USE AND TERMINAL LEASE AGREEMENTS BETWEEN THE ONTARIO INTERNATIONAL AIRPORT AUTHORITY AND NEW OR EXISTING AIR CARRIERS DESIRING TO OPERATE AT ONTARIO INTERNATIONAL AIRPORT**

The Ontario International Airport Authority (OIAA) authorized the Chief Executive Officer to negotiate and execute Operating Use and Terminal Lease Agreements between the OIAA and passenger and/or cargo air carriers electing to operate at Ontario International Airport (ONT) as “signatory” air carriers for a fixed term. By becoming a signatory air carrier, an airline commits to long-term use and operation at ONT in exchange for reduced operating costs. Over time, this partnership incentivizes increased operations at ONT and additional revenue opportunities for the OIAA.

**8. A RESOLUTION AUTHORIZING THE CHIEF EXECUTIVE OFFICER TO CERTIFY AND ACCEPT DEEDS AND GRANTS OF AVIGATION EASEMENTS OR SIMILAR INSTRUMENTS ON BEHALF OF THE ONTARIO INTERNATIONAL AIRPORT AUTHORITY**

The Ontario International Airport Authority (OIAA) adopted a resolution to authorize the Chief Executive Officer (CEO) to certify and accept deeds and grants of avigation easements or similar instruments on behalf of the OIAA pursuant to Government Code section 27281. There is no fiscal impact to authorize the CEO to certify and accept deeds and grants of avigation easements by property owners pursuant to Government Code section 27281 on behalf of the OIAA.

**RESOLUTION NO. 2018-07** A RESOLUTION OF THE ONTARIO INTERNATIONAL AIRPORT AUTHORITY TO AUTHORIZE THE CHIEF EXECUTIVE OFFICER TO CERTIFY AND ACCEPT DEEDS AND GRANTS OF AVIGATION EASEMENTS OR SIMILAR INSTRUMENTS ON BEHALF OF THE ONTARIO INTERNATIONAL AIRPORT AUTHORITY.

## **ADMINISTRATIVE DISCUSSION/REPORT/ACTION**

### **9. AUTHORIZE THE CHIEF EXECUTIVE OFFICER TO EXECUTE A SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT (SNDA) BETWEEN THE ONTARIO INTERNATIONAL AIRPORT AUTHORITY AND RAYTHEON COMPANY, (SUBLESSEE)**

The Ontario International Airport Authority (OIAA) authorized the Chief Executive Officer to execute a Subordination, Non-disturbance and Attornment Agreement (SNDA) between the Ontario International Airport Authority and Raytheon Company, ("Sublessee") under the Guardian Air Services, LLC, Master Lease ONT-7994. In the Sublease, Raytheon has agreed to rent a portion of the Expansion Project area from Guardian for ten (10) years, with three five (5) year options at market rates with periodic market adjustments.

Chief Executive Officer Thorpe provided a brief presentation regarding Item No. 09.

**MOTION:** Moved by Commissioner Hagman, seconded by Commissioner Gouw and carried by a unanimous vote of 5-0, to authorize a Subordination, Non-Disturbance and Attornment Agreement between the OIAA and Raytheon Company.

### **10. FISCAL YEAR 2017-18 BUDGET UPDATE AND ANALYSIS OF OPERATING AND MAINTENANCE BUDGET VS. ACTUAL FOR THE EIGHT MONTHS ENDED FEBRUARY 28, 2018**

That the Ontario International Airport Authority review the results of operation for the eight months ended February 28, 2018 and the comparison the budget for the corresponding period.

Chief Executive Officer Thorpe gave a Power Point presentation regarding the OIAA budget update.

Item No. 10 was received and filed.

**11. A RESOLUTION APPROVING AN AIR CARRIER INCENTIVE PROGRAM (ACIP) TO ENCOURAGE AND PROMOTE THE OPERATION OF COMMERCIAL PASSENGER AND CARGO AIR SERVICE TO NEW NONSTOP TRANSCONTINENTAL AND OTHER LONG-HAUL AIR SERVICE IN NORTH AMERICA AT LEAST 1,750 NAUTICAL MILES FROM ONTARIO, CALIFORNIA**

The Ontario International Airport Authority (OIAA) adopt a resolution approving an Air Carrier Incentive Program (ACIP), offering Qualified Air Carriers (as that term is defined in the ACIP) a waiver of landing fees, rent credit, as well as advertising and marketing support, to encourage and support the launch of transcontinental and other long-haul non-stop passenger and all cargo (i.e., freighter) services between ONT and new destinations in North America that are at least 1,750 nautical miles from Ontario, California.

**RESOLUTION NO. 2018-08** A RESOLUTION OF THE ONTARIO INTERNATIONAL AIRPORT AUTHORITY COMMISSION ESTABLISHING AN AIR CARRIER INCENTIVES POLICY FOR TRANSCONTINENTAL, LONG-HAUL NON-STOP PASSENGER, AND CARGO FLIGHTS.

Chief Executive Officer Thorpe gave a brief presentation regarding the Item No. 11 and amended his recommendation removing the 1750 nautical miles restriction.

**MOTION:** Moved by Commissioner Hagman, seconded by Commissioner Gouw and carried by a unanimous vote of 5-0, to authorize adopt Resolution No. 2018-08.

**STAFF MATTERS**

There were no announcements or updates.

**COMMISSIONER MATTERS**

Commissioner Gouw announced she spoke with members of the San Gabriel community who expressed concerns regarding pick up and arrivals for flight to Taipei.

Commissioner Hagman stated he had a wonderful experience on the China Airlines flight from Taipei, Taiwan to Ontario.

Vice President Loveridge requested an update on the Leadership Committee, noted his attendance to the 90<sup>th</sup> Annual AAE Conference and Exposition and mentioned the article on the Ontario International Airport in the Airport Business Magazine.

Chief Executive Officer Thorpe provided a brief update on the Leadership Committee.

Secretary Bowman stated that the article in the Airport Business Magazine speaks of the success of local control. He added that the airport has been noticed and is now growing.

President Wapner also noted his attendance to the 90<sup>th</sup> Annual AAAE Conference and Exposition and added that people recognize what ONT means and stated the ONT is being positively received by other airports.

## **ADJOURNMENT**

President Wapner adjourned the Ontario International Airport Authority Commission meeting at 3:34 p.m.

RESPECTFULLY SUBMITTED:

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CLAUDIA Y. ISBELL, CLERK OF THE BOARD

APPROVED:

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ALAN D. WAPNER, PRESIDENT  
ONTARIO INTERNATIONAL AIRPORT AUTHORITY



DATE: MAY 22, 2018

SECTION: CONSENT CALENDAR

SUBJECT: ONTARIO INTERNATIONAL AIRPORT AUTHORITY COMMISSION APPROVAL OF STIPENDS AS REQUIRED BY AUTHORITY BYLAWS

RELEVANT STRATEGIC OBJECTIVE: Development of Airport-Related Businesses.

RECOMMENDED ACTION(S): That the Ontario International Airport Authority Commission approve additional stipends per Article IV, Section 6 of the Authority’s Bylaws.

BACKGROUND: Article IV, Section 6 of the Authority’s Bylaws states as follows:

“No salary: Reimbursement for Expenses; Stipends. The members of the Commission shall receive no salary but shall be reimbursed for necessary expenses (including mileage in accordance with standard IRS mileage reimbursement rates) incurred in the performance of their duties. Additionally, commissioners will receive a stipend in the amount of one hundred fifty dollars (\$150.00) for attendance at each Commission meeting, standing committee meeting, ad hoc committee meeting, and any Authority-related business function. A maximum of six (6) stipends are permitted per month. An additional two (2) stipends are permitted with prior approval of the President. More than eight (8) stipends per month will require approval by the full Commission.”

During the month of April 2018, President Wapner attended six (2) additional Authority-related business functions and Commissioner Hagman attended seven (7) additional Authority-related business functions. Full Commission approval is needed to approve payment of stipends.

CEQA COMPLIANCE: Exclusion from the definition of “project”: The creation of government funding mechanisms or other government fiscal activities which do not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment. (CEQA Guidelines §15378(b)(4).)

FISCAL IMPACT AND SOURCE OF FUNDS: OIAA operating revenue.

STAFF MEMBER PRESENTING: Claudia Y. Isbell, Board Clerk

Department: Clerk’s Office

Submitted to OIAA: May 22, 2018

Approved: \_\_\_\_\_

Continued to: \_\_\_\_\_

Denied: \_\_\_\_\_

Chief Executive Officer Approval:

**PRIOR COMMISSION ACTION:** On December 8, 2016, the OIAA Commission adopted Resolution No. 2016-14 approving and adopting the OIAA Bylaws.

**STAFFING IMPACT (# OF POSITIONS):**

N/A

**IMPACT ON OPERATIONS:**

N/A

**ATTACHMENTS:**

N/A

*The Agenda Report references the terms and conditions of the recommended actions and request for approval. Any document(s) referred to herein and that are not attached or posted online may be reviewed prior to or following scheduled Commission meetings in the Office of the Clerk of the Commission. Office hours are 8:30 a.m. to 5:00 p.m., Monday through Friday*

This Agenda Report has been reviewed by OIAA General Counsel. |



**DATE:** MAY 22, 2018

**SECTION:** CONSENT CALENDAR

**SUBJECT:** AUTHORIZE THE CHIEF EXECUTIVE OFFICER TO NEGOTIATE AND EXECUTE NON-EXCLUSIVE REVOCABLE FUEL DELIVERY PERMITS BETWEEN THE ONTARIO INTERNATIONAL AIRPORT AUTHORITY AND NEW OR EXISTING FUEL DELIVERY OPERATORS AT ONTARIO INTERNATIONAL AIRPORT.

**RELEVANT STRATEGIC OBJECTIVE:** Develop Airport Related Businesses.

**RECOMMENDED ACTION(S):** That the Ontario International Airport Authority (OIAA) authorize the Chief Executive Officer to negotiate and execute Non-Exclusive Revocable Fuel Delivery Permits between the OIAA and new or existing fuel delivery operators at Ontario International Airport (ONT) for five (5)-year terms.

**FISCAL IMPACT SUMMARY:** This authorization would allow form permit agreements to be entered so that OIAA can charge fuel delivery operators a fee to deliver fuel at ONT. Currently, the OIAA charges \$0.03 per gallon to all aviation gasoline and turbine fuel delivery companies, except for deliveries to signatory air carriers and the military. Each fuel delivery permittee will be required to pay a non-refundable \$1,000 administrative fee, plus a performance guarantee of three (3) times the highest monthly amount of fuel fees, or \$5,000, whichever is greater.

**BACKGROUND:**

All petroleum product delivery companies or brokers, who engage in fuel delivery (whether by hydrant or tanker truck) to ONT and tenants' storage facilities or buy and sell fuel from storage facilities, are required to obtain a fuel delivery permit from OIAA. After the transfer from LAWA, OIAA was assigned existing fuel deliver permits, but the fixed terms for these agreements are nearing their expiration. In addition, new fuel delivery companies have expressed a desire to deliver fuel at ONT and wish to enter into permits to do so. In consideration for obtaining a permit, fuel companies will be required to pay OIAA a delivery fee (\$0.03 per gallon) for all aviation gas and turbine fuel deliveries.

**STAFF MEMBER PRESENTING:** Mark A. Thorpe, Chief Executive Officer

Department: Administration Department

Submitted to OIAA: May 22, 2018

Approved: \_\_\_\_\_

Continued to: \_\_\_\_\_

Denied: \_\_\_\_\_

Chief Executive Officer Approval: 

This authorization will allow the CEO to enter into permits on a non-exclusive basis and on terms similar to the existing permits currently in-force at ONT. The terms and provisions have been updated for use by OIAA and adopts a standard term of five (5) years, which will be subject to earlier termination by either party upon thirty (30) days' written notice. Permittees also will be required to provide required insurance coverage to OIAA and hold OIAA harmless for permittees' activities.

**CEQA COMPLIANCE AND LAND USE APPROVALS:** The issuance of Non-Exclusive Revocable Fuel Delivery Permit is Categorically Exempt (Class 1) from the requirements of the California Environment Quality Act (CEQA) pursuant to Section 15301. Furthermore, on November 30, 2017, the OIAA issued a Notice of Exemption (NOE) for the Expansion Project itself. The NOE was based upon 14 Cal Code Regs Section 15332, which addresses in-fill development projects.

#### **EXHIBITS & ATTACHMENTS:**

##### **Attachemnt A - NON-EXCLUSIVE REVOCABLE FUEL DELIVERY PERMIT**

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This Agenda Report has not been reviewed by OIAA General Counsel.



**NON-EXCLUSIVE REVOCABLE FUEL DELIVERY PERMIT BETWEEN ONTARIO  
INTERNATIONAL AIRPORT AUTHORITY AND [ ]  
AT ONTARIO INTERNATIONAL AIRPORT**

THIS NON-EXCLUSIVE REVOCABLE FUEL DELIVERY PERMIT (“Permit”) is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2018, by and between the ONTARIO INTERNATIONAL AIRPORT AUTHORITY, a joint powers authority created by the City of Ontario and San Bernardino County (the “OIAA”), and [ ] (“Permittee”).

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

**ARTICLE 1. SPECIFIC TERMS AND PROVISIONS**

**Section 1.0. Purpose of Permit.**

1.1. This Permit, issued by the OIAA, grants the right and permits (“Permittee”) to conduct business at Ontario International Airport (“Airport”) for the sole purpose of delivering all aviation gasoline and aviation turbine fuel to said Airport, subject to all of the terms, conditions and covenants of this Permit and the Standard Permit Conditions, attached hereto and made a part hereof (“Services”). The granting of this Permit specifically does not include the right to conduct into-plane fueling of airplanes on Airport nor to conduct any other business at Airport except the delivery of all aviation gasoline and aviation turbine fuel to said Airport.

**Section 2.0. Term.**

2.1. The term of this Permit shall commence on \_\_\_\_\_, and shall terminate at midnight on \_\_\_\_\_, subject, however, to earlier termination with or without cause by either party at any time, upon thirty (30) days advance written notice to the other party, or as otherwise provided herein.

**Section 3.0. Fees.**

3.1. Fees. Permittee shall pay to OIAA for the permit rights herein granted the following fees for delivery of all aviation gasoline and aviation turbine fuel at Airport:

3.1.1. The sum of three cents (\$.03) per gallon for all aviation gasoline delivered to non-permitted air carriers at Airport;

3.1.2. The sum of three cents (\$.03) per gallon for all aviation turbine fuel delivered to non-permitted air carriers at Airport;

3.2. In addition to the fees set forth above, Permittee shall pay an annual administrative fee of ONE THOUSAND DOLLARS (\$1,000) payable at the beginning of the Term. This administrative fee is due and payable whether or not business activity was reported for every month during the reporting period. In the event that the Permit is terminated, the administrative fee is non-refundable.

3.3. Exceptions to 3.1.1. and 3.1.2. Aviation and turbine fuel delivered to signatory air carriers at ONT, and to the military, will be excluded from the three (\$.03) per gallon fee.

3.4. The fees set forth in 3.1.1 and 3.1.2, above, shall apply to the delivery of all aviation gasoline and aviation turbine fuel delivered to Airport regardless of method of delivery. Such fees will apply to all aviation gasoline and aviation turbine fuel delivered to any and all tenants and users of Airport.

3.5. All fees payable hereunder shall be paid to:

Ontario International Airport Authority  
1923 E. Avion Street  
Ontario, CA 91761

unless and until otherwise directed by the Chief Executive Officer.

3.6. Permittee acknowledges that the Chief Executive Officer is authorized to adjust fees and/or other charges established periodically by the OIAA that shall be generally applicable to similarly situated permits at Airport and that Permittee accepts responsibility for payments based on such modifications.

#### **Section 4.0. Reports, Audit and Payment.**

4.1. Monthly Accounting Report. Permittee shall establish and maintain such accounting and recording systems and practices at Airport as will correctly reflect the gross amount billed or received by Permittee for the delivery of all aviation gasoline and aviation turbine fuel. During the Term, Permittee shall transmit to OIAA a monthly accounting report of the gross amount billed or received by it for delivery of all aviation gasoline and aviation turbine fuel delivered to Airport in such manner and detail and upon such forms as are prescribed by OIAA. Said accounting report shall reach OIAA within ten (10) days after the last day of the month covered by said accounting report. At the time of said accounting, Permittee shall pay to OIAA all fees due OIAA under the terms hereof. Permittee shall furnish this accounting report to OIAA each month whether or not any amount has been received by Permittee for any business activity. A FIFTY DOLLAR (\$50) late fee shall apply to all accounting reports that are not received by OIAA within ten (10) days after the last day of the month covered by said accounting report.

#### 4.2. Audit.

4.2.1. OIAA, or its duly authorized representatives, shall, at all reasonable times, have the right of access to and the right to examine and audit all records of Permittee pertaining to the operation of its business under this Permit for the purpose of ascertaining the correctness of said accounting. Permittee hereby authorizes its officers, agents and employees to disclose to OIAA any and all information pertaining to its operations under the permit rights herein granted, including all account books, ledgers, journals, accounts, records and things done or performed by Permittee in connection therewith during the term of this Permit. Such books, ledgers, journals, accounts, and records necessary to conduct the audit must be made available to OIAA in the greater San Bernardino County area at Permittee's expense, upon notice by OIAA.

4.2.2. It is agreed that examinations of the books, ledgers, journals and accounts of Permittee will be conducted in accordance with generally accepted auditing standards applicable to the circumstances and that as such, said examinations do not require a detailed audit of all transactions. Testing and sampling methods may be used in verifying reports submitted by Permittee. Deficiencies ascertained by the use of such testing and sampling methods by applying the percentages of error obtained from such testing and sampling to the entire period of reporting under examination will be binding upon Permittee and to that end shall be admissible in court to prove any amounts due OIAA from Permittee. In the event there is any net deficiency in the amount of two percent (2%) or greater of the compensation payable to OIAA hereunder, Permittee agrees to pay OIAA for the cost of the audit as well as any other deficiencies, payments and liquidated damages due under this or any other provision of this Permit.

4.2.3. OIAA's right to access such records and information shall survive three (3) years beyond the expiration or early termination of this Permit. Permittee shall retain all records and other information necessary to perform an audit as described above for a minimum of seven (7) years.

### **Section 5.0. Permit Rights and Motor Vehicle Operating Rights.**

#### 5.1. Permit Rights.

5.1.1. OIAA grants to Permittee, during the Term and on a non-exclusive basis at Airport, the right to conduct the Services. It is understood that OIAA will not require any of the users of such type of services to use Permittee.

5.1.2. This Permit does not include the right or privilege to conduct any business or activity other than the Services. Permittee does not have the right to enter onto the restricted area of the airfield, unless in possession of, and fully compliant with, a valid motor vehicle operating permit is obtained. In order to conduct any activity other than that specifically provided for herein, Permittee will be required to obtain separate authorization through the appropriate Permit, permit or agreement authorizing such activity.

5.2. Motor Vehicle Operating Rights. If applicable, OIAA grants to Permittee, subject to all the terms, conditions and covenants of the motor vehicle operating permit, which is incorporated by reference to this Permit, the motor vehicle operating rights contained therein. Permittee acknowledges and agrees that the obligations contained therein are in addition to the obligations set forth in this Permit. If applicable, Permittee shall pay fees for both the non-exclusive permit rights and the motor vehicle operating rights granted by this Permit and the issuance of the motor vehicle operating permit.

**Section 6.0. Performance Guarantee.**

6.1. Permittee shall furnish to OIAA and maintain throughout the term of this Permit a Faithful Performance Guarantee to secure the faithful performance by Permittee of all the terms, provisions, and covenants contained herein including, but not limited to, the payment of fees and any other specified compensation. Such Guarantee shall be separate from any other Guarantee(s) required by OIAA. The initial amount of said Guarantee shall be three (3) times the highest estimated monthly compensation prescribed herein, or \$5,000, whichever is greater.

6.2. If Permittee has previously provided such Guarantee to OIAA and if, for any reason, Permittee's monthly monetary obligation to OIAA is thereafter increased in excess of ten percent (10%), and if three (3) times the monthly obligation is greater than \$5,000, then the amount of Permittee's Guarantee shall, within thirty (30) days after receiving written notice from OIAA, correspondingly be increased to a sum three (3) times the new amount.

6.3. If Permittee has previously provided such Guarantee to OIAA and if, for any reason, Permittee's monthly monetary obligation to OIAA is thereafter decreased in excess of ten percent (10%), then the amount of Permittee's Guarantee may be correspondingly decreased to a sum three (3) times the new amount thirty (30) days following written notice to OIAA by Permittee, in the Chief Executive Officer's sole discretion.

6.4. Performance Guarantees shall be in the form of an Irrevocable Letter of Credit. All Performance Guarantees must be approved by the OIAA.

6.5. Permittee shall furnish such Guarantee in duplicate prior to permit commencement or within thirty (30) days following notice of adjustment of fees and/or other compensation. If, for any reason, said Guarantee is not provided by Permittee and/or is not thereafter maintained in sufficient amount throughout the term hereof, OIAA, subject to the notice requirements of Article 2, Subsection 24.1, may terminate this Permit. Upon the expiration or earlier termination of this Permit, and if Permittee has satisfied all of its obligations to OIAA hereunder, OIAA shall relinquish to Permittee said Guarantee following such expiration or earlier termination and satisfaction of all obligations to OIAA. The Guarantee shall be submitted to:

Ontario International Airport Authority  
1923 E. Avion Street  
Ontario, CA 91761

**Section 7.0. Notice.**

7.1. Notice to OIAA Written notices to OIAA hereunder, shall be sent to the Chief Executive Officer of the OIAA, must be given by registered or certified mail, postage prepaid, and addressed to:

**Ontario International Airport Authority**  
Chief Executive Officer  
1923 E. Avion Street  
Ontario, CA 91761

or to such other address as OIAA may designate by written notice to Permittee.

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

**[PERMITTEE NAME]**  
**[ADDRESS]**

or to such other address as Permittee may designate by written notice to OIAA.

7.3. The execution of any such notice by the Chief Executive Officer shall be as effective as to Permittee as if it were executed by the OIAA, or by resolution or order of said OIAA, and Permittee shall not question the authority of Chief Executive Officer to execute any such notice.

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

**ARTICLE 2. STANDARD TERMS AND PROVISIONS**

**Sec. 1.0. Limitations on Use of Airport.**

1.1. Permittee shall not use the Airport, nor any portion thereof, for any purpose other than that hereinabove set forth in Article 1, without first having had and obtained the written consent of the Chief Executive Officer, which consent may be withheld in the Chief Executive Officer's sole discretion.

1.2. There is hereby reserved to OIAA, its successors and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the

Airport. This public right of flight shall include the right to cause in said airspace any noise, vibration, currents, and other effects of air, illumination, and fuel consumption as may be inherent in the operation of any aircraft of any and all kinds, now or hereafter known or used, for navigation of or flight through said airspace or landing at, taking off from, or operating on Airport. Permittee agrees not to make any claim or institute legal or administrative actions against OIAA under any theory of recovery for any interference with Permittee's use and enjoyment of the Airport which may result from noise or vibration emanating from the operation of aircraft to, from, or upon Airport.

1.3. Permittee, by accepting this Permit, agrees for itself and its successors and assigns that it will not make use of the Airport in any manner which might interfere with the landing and/or taking off of aircraft from Airport or otherwise constitute a hazard to such operations. In the event the aforesaid covenant is breached, OIAA reserves the right to take all action it deems necessary to cause the abatement of such interference at the expense of Permittee.

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

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

1.6. Permittee has no rights under this Permit to install or use any antennae or telecommunications equipment on the roof or exterior of any building or structure on the Airport, unless such installation or use is directly related to the conduct of Permittee's business and in full compliance with OIAA's permit process and telecommunications policies as they may be modified from time to time at the sole discretion of the Chief Executive Officer. Permittee may not license or subpermit to others the right to install or use antennae or other telecommunications equipment on the Airport.

## **Sec. 2.0. Permit Payments.**

2.1. Delivery of Permit Payments. Permit Payments shall be paid by Permittee to OIAA on or before the first day of each calendar month of the term hereof. In the event the commencement or termination date of this Permit falls on any date other than the first day of the calendar month, the applicable payment for that month shall be calculated pro rata according to the number of days during which the Permit, or any part of the same, were occupied by Permittee during said month. All payments shall include the contract number, which is stamped on the first page of this Permit, on each payment check and the remittance advice attached to the invoice, if any, delivered to Permittee to OIAA.

2.2 All payment shall be mailed to the following address:

**Ontario International Airport Authority  
1923 E. Avion Street  
Ontario, CA 91761**

2.3 OIAA may designate an alternate address at any time upon giving Permittee a thirty (30) day advance, written notice. Invoices may be sent by OIAA to Permittee as a customer courtesy, and receipt of such invoice shall not be a condition prior to payment of rent.

**Sec. 3.0. Late Charge and Interest for Delinquent Payment.**

3.1 Permittee hereby acknowledges that late payment by Permittee of compensation, fees and charges provided herein will cause OIAA to incur costs not contemplated by this Permit, the exact amount of which will be extremely difficult to ascertain. Such costs include, but are not limited to, processing and accounting charges. Accordingly, if any amount due OIAA is not received by OIAA within 10 days after such amount shall be due, then, without any requirement for notice to Permittee, Permittee shall immediately pay to OIAA a one-time late charge equal to 10% of such overdue amount or \$200, whichever is greater. The parties agree that such late charge represents a fair and reasonable estimate of the costs the OIAA will incur by reason of such late payment. Acceptance of such late charge by OIAA shall in no event constitute a waiver of Permittee's default or breach with respect to such overdue amount, nor prevent the exercise of any other rights and remedies granted herein.

3.2 Any monetary payment due OIAA hereunder shall bear interest from the date when due. The interest rate shall be 10% per annum, compounded monthly, but shall not exceed the maximum rate allowed by law. The interest that applies shall be in addition to the late charge.

**Section 4.0. (Intentionally Omitted)**

**Sec. 5.0. Reports.**

5.1 OIAA may, at its discretion and with reasonable notice to Permittee, require Permittee within ten (10) days after the end of each calendar month, to report to the Airport's Chief Financial Officer certain operating statistical and financial data applicable to OIAA airports covering the previous calendar month in such form and content as shall reasonably be specified by the Chief Financial Officer.

**Sec. 6.0. (Intentionally Omitted).**

**Sec. 7.0. Signs.**

7.1 No identification signs pertaining to Permittee's operations shall be installed or placed in or on the Airport, until Permittee has submitted to the Chief Executive Officer, or to his/her designated representative, drawings, sketches, design dimensions, and type and character of such identification signs proposed to be placed thereon or therein, and has received written approval from the Chief Executive Officer or designee. The Chief Executive Officer or designee's

written approval and any conditions related to the subject signs shall become a part of the Permit as though fully set forth herein, once the document is fully executed by both parties.

7.2. Other than approved identification signs, Permittee shall not, at any time, under any circumstances, install, place, or maintain any type of advertising, on the Airport.

**Sec. 8.0. Insurance.**

8.1. Permittee shall procure at its expense, and keep in effect at all times during the term of this Permit, the types and amounts of insurance specified on Insurance, Exhibit A, attached hereto and incorporated by reference herein. The specified insurance shall also, either by provisions in the policies, by OIAA's own endorsement form or by other endorsement attached to such policies, include and insure OIAA, its Commission, each member of the Commission, and all of OIAA's officers, directors, employees, agents, and authorized volunteers, their successors and assigns, as additional insureds, against the areas of risk described on Insurance, Exhibit A, hereof with respect to Permittee's acts or omissions in its operations, use, and occupancy of the Airport or other related functions performed by or on behalf of Permittee in, on or about Airport.

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

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

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

8.5. At least ten (10) days prior to the expiration date of the above policies, documentation showing that the insurance coverage has been renewed or extended shall be filed

with OIAA. If such coverage is canceled or reduced, Permittee shall, within fifteen (15) days of such cancellation of coverage, file with OIAA evidence that the required insurance has been reinstated or provided through another insurance company or companies.

8.6. Permittee shall provide proof of all specified insurance and related requirements to OIAA either by production of the actual insurance policy(ies), by use of OIAA's own endorsement form(s), by broker's letter acceptable to the Chief Executive Officer in both form and content in the case of foreign insurance syndicates, or by other written evidence of insurance acceptable to the Chief Executive Officer. The documents evidencing all specified coverages shall be filed with OIAA in duplicate and shall be procured and approved by the OIAA prior to Permittee's use of Airport. The documents shall contain the applicable policy number, the inclusive dates of policy coverages, and the insurance carrier's name, shall bear an original signature of an authorized representative of said carrier, and shall provide that such insurance shall not be subject to cancellation, reduction in coverage, or nonrenewal except after written notice by certified mail, return receipt requested, to the OIAA at least thirty (30) days prior to the effective date thereof. OIAA reserves the right to have submitted to it, upon request, all pertinent information about the agent and carrier providing such insurance.

8.7. OIAA and Permittee agree that the insurance policy limits specified herein shall be reviewed for adequacy annually throughout the term of this Permit by the Chief Executive Officer who may, thereafter, require Permittee, on thirty (30) days prior, written notice, to adjust the amounts of insurance coverage to whatever reasonable amount said Chief Executive Officer deems to be adequate.

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

#### **Sec. 9.0. OIAA Indemnification and Hold Harmless.**

9.1. In addition to the requirements of Article 2, Section 8 Insurance herein, Permittee shall indemnify, defend, keep, and hold OIAA, its Commission, each member of the Commission, and all of OIAA's officers, directors, employees, agents, and authorized volunteers ("Authority Indemnitees"), harmless from any and all costs, liability, damage, or expense (including costs of suit and fees and reasonable expenses of legal services) claimed by anyone by reason of injury to or death of persons, including Permittee, or damage to or destruction of property, including property of Permittee, sustained in, on, or about the Airport or arising out of or related to Permittee's use or occupancy of Airport, or arising out of the acts or omissions of Permittee, its agents, servants, or employees, acting within the scope of their agency or employment.

#### **Sec. 10.0. Attorneys' Fees.**

10.1. If OIAA shall, without any fault, be made a party to any litigation commenced by or against Permittee arising out of Permittee's use or occupancy of the Airport, then Permittee

shall pay all costs, expenses, and reasonable attorney's fees incurred by or imposed upon OIAA in connection with such litigation. Each party shall give prompt notice to the other of any claim or suit instituted against it that may affect the other party.

**Sec. 11.0. Compliance with Laws, Rules, Restrictions and Regulations.**

11.1. Permittee shall be solely responsible for fully complying with any and all applicable present and/or future rules, regulations, restrictions, ordinances, statutes, laws and/or orders of any federal, state, and/or local government authority and all orders, directives, or conditions issued, given or imposed by the Chief Executive Officer, which are now in force or which may be hereafter adopted by the OIAA and/or the Chief Executive Officer with respect to the operation of Airport. Permittee shall further comply with all laws, rules, and regulations as set forth in Exhibit B.

11.2. Notwithstanding the requirements of this Permit, Permittee shall be responsible for obtaining a motor vehicle operating permit, and for ensuring that all operators of motor vehicles operated on Permittee's behalf possess current, valid, and appropriate driver's licenses.

11.3. Permittee shall be responsible for requesting in writing OIAA-issued identification ("ID") badges for all employees who will have access to the Security Identification Display Areas on the Airport, as designated in the Airport's security program. Each employee must complete the Transportation Security Administration ("TSA")-mandated training program before an ID badge is issued. As part of the badging process, OIAA will conduct background investigations, including fingerprinting of Permittee's employee badge applicants. Permittee shall assist OIAA as necessary to facilitate the badging process. Permittee shall be responsible for the immediate reporting of all lost or stolen ID badges and the immediate return of the ID badges of all personnel transferred from Airport assignments or terminated from the employ of the Permittee, or upon termination of this Permit. In addition, Permittee shall pay, or cause to be paid, to the OIAA such charges, as may be established from time to time, for the acquisition of ID badges, for lost or stolen ID badges, and for those badges not returned to the OIAA in accordance with this Section. The OIAA shall also have the right to audit Permittee's compliance with security and ID badge rules and regulations.

11.4. Permittee shall be solely responsible for any and all civil and/or criminal penalties assessed as a result of its failure to comply with any laws, rules, regulations, and/or restrictions. Permittee shall defend, indemnify, and hold harmless Authority Indemnitees from and against any and all fines, penalties, claims or other regulatory requirements imposed as a result of Permittee's non-compliance.

**Sec. 12.0. Airfield Security.**

12.1. Permittee shall be responsible for fully complying with any and all applicable present and/or future rules, regulations, restrictions, ordinances, statutes, laws, airport security agreements, and/or orders of any federal, state, and/or local governmental entity regarding airfield security. Permittee shall comply fully with applicable provisions of the Transportation Security Administration Regulations, 49 Code of Federal Regulations ("CFR"), Sections 1500 through 1550 and 14 CFR Part 129, if applicable, including the establishment and implementation of

procedures acceptable to the Executive Director to control access to air operation areas in accordance with the Airport Security Program required by CFR Sections 1500 through 1550.

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

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

12.4. All civil penalties levied by the TSA for violation of TSA Regulations pertaining to security gates or doors controlled or used by Permittee shall be the sole responsibility of Permittee. Permittee agrees to indemnify Authority Indemnitees for any federal civil penalty amounts OIAA must pay due to any security violation arising from the breach of any obligation imposed by this Section. Permittee is also responsible for OIAA's attorney's fees and costs.

### **Sec. 13.0. Assignments and Encumbrances.**

13.1. Permittee shall not, in any manner assign, transfer or encumber this Permit, or any portion thereof or any interest therein, nor shall Permittee permit or otherwise authorize the use of, in whole or in part, the rights granted by this Permit, without the prior written consent of the Chief Executive Officer, which consent shall be in the sole discretion of the Chief Executive Officer. Any attempts to assign, transfer or encumber this Permit, or any licensing or authorizing the use of, in whole or in part, the rights granted by this Permit, shall be void and shall confer no right, title or interest in or to this Permit, upon any such assignee, transferee, or encumbrancer. Consent to one assignment, transfer, or encumbrance shall not be deemed to be a consent to any subsequent assignment, transfer or encumbrance. This Permit shall not, nor shall any interest therein, be assignable as to the interest of Permittee by operation of law without the prior written consent of the OIAA.

13.2. When proper consent has been given by the Chief Executive Officer, the provisions of this Permit shall be binding upon, and shall inure to the benefit of, the heir(s), successor(s), executor(s), administrator(s) and assign(s) of the parties hereto.

### **Sec. 14.0. Federal Non-Discrimination Provisions.**

14.1. The Permittee for himself, his heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree that in the event

facilities are constructed, maintained, or otherwise operated on said property described in this Permit, for a purpose for which a Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, the Permittee shall maintain and operate such facilities and services in compliance with all nondiscrimination laws, rules, regulations, including those contained in Exhibit B, and all other requirements imposed pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.

14.1.2. The Permittee for himself, his personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant that: (1) no person on the grounds of race, color or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the Permittee shall use the Airport in compliance with all other requirements imposed by or pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.

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

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

14.1.5. Permittee agrees that it shall insert the provisions found in Subsections 14.1.3 and 14.1.4 above in any assignment, permit, transfer or subpermit by which said Permittee grants a right or privilege to any person, firm, or corporation to render accommodations and/or services to the public on the Airport.

**Sec. 15.0. Taxes, Permit Fees and Licenses.**

15.1. Permittee shall pay all taxes of whatever character that may be levied or charged upon Permittee's operations at the Airport, or upon Permittee's improvements, fixtures, equipment, or other property on the Airport, or upon Permittee's use thereof.

15.2. Permittee shall also pay for, and cause to be maintained in full force and effect during the term of this Permit, all licenses or permits necessary or required by law or regulation for the conduct and operation of Permittee's business authorized herein, or for use of Airport. Such permits and permits shall cover not only Permittee, but also all of Permittee's employees and agents required to be licensed to transact Permittee's business at the Airport.

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

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

**Sec. 16.0. Disabled Access.**

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

16.2. Should Permittee fail to comply with Subsection 16.1, then OIAA shall have the right, but not the obligation, to perform, or have performed, whatever work is necessary to achieve equal access compliance. Permittee will then be required to reimburse OIAA for the actual cost of achieving compliance, plus a fifteen percent (15%) administrative charge.

**Sec. 17.0. (Intentionally Omitted).**

**Sec. 18.0. Waiver.**

18.1 The waiver by either party of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of any other term, covenant, or condition, or of any subsequent breach of the same term, covenant, or condition. The subsequent acceptance of compensation hereunder by OIAA shall not be deemed to be a waiver of any preceding breach by Permittee of any term, covenant, or condition of this Permit other than the failure of Permittee to pay the particular compensation so accepted, regardless of OIAA's knowledge of such preceding breach at the time of acceptance of such compensation.

**Sec. 19.0. OIAA's Right to Contract With Others Regarding Permit Rights.**

19.1. The rights granted hereunder by this Permit are not exclusive in nature, and OIAA specifically reserves the right to enter into similar additional Permit agreements at Airport, at any time.

**Sec. 20.0. Hazardous and Other Regulated Substances.**

20.1. **Definition of "hazardous substances(s)."** For the purposes of this Permit, "hazardous substances" means:

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

20.1.2. Any substance which is or becomes defined as a hazardous waste, extremely hazardous waste, hazardous material, hazardous substance, hazardous chemical, toxic chemical, toxic substance, cancer causing substance, substance that causes reproductive harm, pollutant or contaminant under any federal, state or local statute, regulation, rule or ordinance or amendments thereto, including, without limitation: (a) the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. Section 9601 et seq.); (b) the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (42 U.S.C. Section 6901 et seq.); (c) 9 CFR Subchapter C (Transportation of Hazardous Materials); (d) the Clean Air Act, 42 USC §§ 7401, et seq.; (e) Clean Water Act, 33 USC §§ 1251, et seq.; (f) the Oil Pollution Act of 1990, 33 USC §§ 2701, et seq.; (g) the Federal Water Pollution Control Act, 33 U.S.C. §§1317, et seq.; (h) the Safe Drinking Water And Toxic Enforcement Act of 1986, California Health and Safety Code §§25249.5 et seq.; (i) California Health and Safety Code §§25100, et seq., 25395.7, 25915, et seq.; (j) the Porter-Cologne Water Quality Control Act, California Water Code §§13000, et seq.; (k) California Civil Code §§3479, et seq.; (l) Storm Water Discharge Rules, 40 C.F.R. §§ 122.26, 122.30-37; (m) the Carpenter-Presley-Tanner Hazardous Substances Account Act, California Health and Safety Code §§25300, et seq.; (n) Toxic Substances Control Act, 15 USC §§2601, et seq.; (o) the Safe Drinking Water Act, 24 USC §§300f, et seq.; and (p) all other laws, rules, orders, directives, and codes, regulations, judgments, and orders relating to (q) emissions, discharges, release, and/or threatened release of hazardous substances into the environment (including, but not limited to, ambient air, surface water,

groundwater, land surface, or subsurface strata); and (2) the manufacture, processing, distribution, use, generation, treatment, storage, disposal, transport or handling of hazardous substances, as such laws are amended, and the regulations and administrative codes applicable thereto.; or

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

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

20.1.5. Any substance the presence of which on adjacent properties could constitute a trespass or nuisance by Permittee; or

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

20.2. Environmental Indemnity. Except for conditions existing prior to the original operation and use of the Airport by Permittee, Permittee agrees to accept sole responsibility for full compliance with any and all applicable present and future rules, regulations, restrictions, ordinances, statutes, laws, and/or other orders of any governmental entity regarding the use, storage, handling, distribution, processing, release or threatened release, and/or disposal of hazardous substances, regardless of whether the obligation for such compliance or responsibility is placed on the owner of the land, on the owner of any improvements on the Airport, on the user of the land, or on the user of the improvements. Permittee agrees that any claims, damages, penalties, or fines asserted (whether legal, administrative, or otherwise) against or levied on Authority Indemnitees and/or the Permittee as a result of noncompliance with any of the provisions in this Section shall be the sole responsibility of the Permittee and that Permittee shall defend, indemnify, and hold Authority Indemnitees harmless from all such claims, damages, penalties, or fines, judgments, actions, costs, orders, expenses, and lawsuits (including fees and costs for attorneys, experts, and expert consultants). Further, Authority Indemnitees may, at their option, pay such claims, damages, penalties, costs, liabilities, losses, expenses, judgments, lawsuits, or fines resulting from Permittee's non-compliance with any of the terms of this Section, and Permittee shall indemnify and reimburse Authority Indemnitees for any such payments.

20.3. In the case of any hazardous substance spill, leak, discharge, release, threatened release, disposal, or contamination by Permittee or its employees, servants, agents, contractors, or subcontractors (or anyone under its direction or control) on the Airport or as may be discharged or released in, on or under adjacent property which affects other property of OIAA or its tenants, Permittee agrees to make or cause to be made any necessary corrective or remedial actions to clean up and remove any such spill, leakage, discharge, release, threatened release, or contamination. If

Permittee fails to repair, clean up, properly dispose of, or take any other corrective or remedial actions as required herein, OIAA may (but shall not be required to) take all steps it deems necessary to properly repair, clean up, or otherwise correct the conditions resulting from the spill, leak, discharge, release, threatened release, or contamination. Any such repair, cleanup, or corrective or remedial actions taken by OIAA shall be at Permittee's sole cost and expense and Permittee shall indemnify and pay for and/or reimburse OIAA for any and all costs (including any administrative costs) OIAA incurs as a result of any repair, cleanup, or corrective or remedial action it takes.

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

20.5 Permittee's Provision to OIAA of Environmental Documents. Permittee shall promptly supply OIAA with complete and legible copies of all notices, reports, correspondence, and other documents sent by Permittee to or received by Permittee from any governmental entity regarding any hazardous substance. Such written materials include, without limitation, all documents relating to any threatened or actual hazardous substance spill, release, leak, or discharge, or to any investigations into or clean up of any actual or threatened hazardous substance spill, leak, release, or discharge including all test results.

20.6. Survival of Obligations. This Section and the obligations herein shall survive the expiration or earlier termination of this Agreement.

#### **Sec. 21.0. Quality of Permittee's Services.**

21.1. Permittee shall, at all times during the term of this Permit, comply with all safety laws, rules, and regulations promulgated by any governmental authority having control over Permittee's operations under this Permit at Airport.

21.2. All vehicles, automotive equipment, machinery, appliances, underground installations and other equipment used by Permittee in its operations under this Permit shall, at no cost to OIAA, be maintained in good mechanical condition and appearance and shall be modern up-to-date equipment which shall, at all times, meet all requirements necessary or lawfully required for fire protection and for the enhancement of the safety of operations considering the nature of the business in which Permittee is engaged.

21.3. All employees of Permittee engaged in rendering the services authorized in this Permit shall, at all times while on duty, be neatly and cleanly dressed in accordance with the duty being performed by them, and they shall wear such identification and/or device as shall meet with the approval of OIAA.

21.4. Permittee shall furnish professional, prompt and efficient service so as not to reflect any discredit on OIAA or Airport.

**Section 22.0. Improvements and Alterations.**

22.1. By Permittee.

22.1.1. Prior to the construction of any improvements, Permittee shall submit to the OIAA for concept approval the preliminary plans and estimated construction cost for such improvements. Said approval, subject to the conditions set forth herein, shall be given in a reasonably timely manner. Upon approval by the Chief Executive Officer of Permittee's preliminary plans, Permittee shall prepare working drawings and specifications which shall be true and correct developments of the preliminary plans so approved. Permittee shall then submit a written request for construction approval and a minimum of five (5) complete sets of said approved working drawings and copies of the specifications to the Chief Airports Engineer's office for written approval by the Chief Executive Officer. The Chief Executive Officer's written approval and any conditions related to the construction of the improvements or alterations shall become a part of the Permit as though fully set forth herein once the document is fully executed by both parties. Upon receipt of the Chief Executive Officer's approval, Permittee shall cause the construction called for by the approved working drawings and specifications to be commenced and completed promptly. No substantial changes, additions, or alterations shall be made in said working drawings or specifications, or in the construction called for thereby, without first obtaining the Chief Executive Officer's approval in writing. Upon completion of the improvements, Permittee shall furnish to OIAA, at no charge, three complete sets of "record" drawings, and one complete set in Computer Aided Design (CAD) format. These drawings must include any applicable permit numbers, the structural and other improvements installed by Permittee on the Airport, and the location and details of installation of all equipment; utility lines, heating, ventilating, and air-conditioning ducts and related matters. Permittee shall keep said drawings current by updating them in order to reflect any changes or modifications which may be made in or to the Airport.

22.1.2. Permittee shall make no structural improvements, additions, or alterations in, to or upon the Airport, nor erect, construct, or place any sign upon Airport, without first obtaining the written consent of the Chief Executive Officer. Any conditions, restrictions, or limitations placed upon the approval by the Chief Executive Officer shall be conditions of this Permit as though fully set forth herein once the document is fully executed by both parties. Permittee shall hold OIAA harmless from liability with respect to any claims regarding any improvements, additions, or alterations made thereto.

22.1.3. For each and every construction or alteration project undertaken on the Airport, Permittee shall prepare a construction report. This report shall contain the following elements: (1) type of improvement constructed or altered; (2) floor area or capacity of improvement constructed or altered; (3) total cost of construction or alteration; (4) completion date for construction or alteration; and (5) a copy of the certificate of occupancy. The construction report shall be mailed to OIAA at the address provided in the

Notices Section of the Permit not later than sixty (60) days following completion of the construction or alteration.

22.1.4. Permittee shall also keep any improvements constructed on Airport free and clear of liens for labor and material expended by or for Permittee or on its behalf.

22.1.5. Permittee agrees to comply with the notification and review requirements covered in Part 77 of the Federal Aviation Administration Regulations in the event any future structure or building is planned, or in the event of any planned modification or alteration of any present or future building or structure.

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

## 22.2. By OIAA.

22.2.1. OIAA reserves the right to further develop or improve the landing area of Airport or any other portion of the Airport, as it sees fit, regardless of the desires or view of Permittee, and without interference or hindrance. If any such development or improvement interferes substantially with Permittee's use and occupancy of the Airport, Permittee shall be entitled to an appropriate reduction in payment of fees or termination of this Permit.

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

22.2.3. Permittee acknowledges that the OIAA retains the right without compensation to Permittee to install or use antennae or telecommunications equipment on the roof or exterior of any building or structure on the Airport (and the right to install and attach cables, wires and conduits on, over or under the Airport), or to permit or license others to do so.

## **Sec. 23.0 Business Tax Registration.**

23.1. Permittee represents that it has registered its business with the City of Ontario and has obtained and presently holds a valid business license. Permittee shall maintain, or obtain as necessary, all such licenses or certificates required of it by the City of Ontario and shall not allow any such license or certificate to be revoked or suspended during the term hereof.

**Sec. 24.0. Default and Right of Termination.**

24.1. In the event Permittee fails to abide by the terms, covenants and conditions of this Permit, including any default in the payment by Permittee of the fees provided for herein, OIAA may give Permittee written notice to correct the defect or default and if the same is not corrected, or substantial steps are not taken toward accomplishing such correction, within ten (10) days after OIAA's mailing such notification, OIAA may terminate this Permit forthwith.

24.2. In case of the bankruptcy of Permittee, or the appointment of a receiver for Permittee, or if a receiver is appointed to take possession of Permittee's business operations as a result of any act or omission of Permittee, or if Permittee makes an assignment of this Permit for the benefit of creditors, OIAA, at its election, may, without notice, terminate this Permit.

24.3. A material default or breach of the terms of any other lease, license, permit, or contract held by Permittee with OIAA shall constitute a material breach of the terms of this Permit and shall give OIAA the right to terminate this Permit for cause in accordance with the procedures set forth herein.

**Sec. 25.0. Miscellaneous Provisions.**

25.1. **Fair Meaning.** The language of this Permit shall be construed according to its fair meaning, and not strictly for or against either OIAA or Permittee.

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

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

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

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

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

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

25.8. **Rights of United States Government.** This Permit shall be subordinate to the provisions and requirements of any existing or future agreement between OIAA and the United States relative to the development, operation, or maintenance of Airport.

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

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

29.11. **Integration Clause.** It is understood that no alteration or variation of the terms of this Permit shall be valid unless made in writing and signed by the parties hereto, and that no oral understanding or agreement, not incorporated herein in writing, shall be binding on any of the parties hereto.

25.12. **Force Majeure.** Except as otherwise provided in this Permit, whenever a day is established in this Permit on which, or a period of time, including a reasonable period of time, is designated within which, either party hereto is required to do or complete any act, matter or thing, the time for the doing or completion thereof shall be extended by a period of time equal to the number of days on or during which such party is prevented from, or is unreasonably interfered with, the doing or completion of such act, matter or thing because of strikes, lockouts, embargoes, unavailability of services, labor or materials, disruption of service or brownouts from utilities not due to action or inaction of OIAA, wars, insurrections, rebellions, civil disorder, declaration of national emergencies, acts of God, or other causes beyond such party's reasonable control (financial inability excepted) ("Force Majeure"); provided, however, that nothing contained in this Subsection shall excuse Permittee from the prompt payment of any compensation, fees or other monetary charge required of Permittee hereunder.

25.13. **Approvals.** Any approvals required by OIAA under this Permit shall not relate to, constitute a waiver of, supersede or otherwise limit or affect the governmental approvals or rights of the OIAA as a governmental agency, including the approval of any permits required for construction or maintenance on the Airport and the passage of any laws including those relating to zoning, land use, building and safety.

25.14. **Conflicts in this Permit.** If there are any direct conflicts between the provisions of Article 1 and Article 2 of the Permit, the provisions of Article 1 shall be controlling.

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

25.16. **Deprivation of Permittee's Rights.** OIAA shall not be liable to Permittee for any diminution or deprivation of Permittee's rights under this Permit which may result from Permittee's obligation to comply with any and all applicable laws, rules, regulations, restrictions, ordinances, statutes, and/or orders of any federal, state and/or local government authority and/or

court hereunder on account of the exercise of any such authority as is provided in this Subsection, nor shall Permittee be entitled to terminate the whole or any portion of the Permit by reason thereof.

25.17 **OIAA's Consent.** In each instance herein where the OIAA's approval or consent is required before Permittee may act, such approval or consent shall not be unreasonably withheld, unless otherwise provided.

IN WITNESS WHEREOF, the Parties have caused this Permit to be executed on this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

ONTARIO INTERNATIONAL AIRPORT  
AUTHORITY

By \_\_\_\_\_  
Mark A. Thorpe  
Chief Executive Officer

[NAME OF PERMITEE]

ATTEST:

By \_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Title

By \_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Title

## EXHIBIT B

### **B.1. Nondiscrimination Requirements; 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 USC § 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 USC § 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 USC § 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 USC § 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, subrecipients 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 USC §§ 12131 – 12189) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration’s Nondiscrimination statute (49 USC § 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 nondiscrimination 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);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from

discriminating because of sex in education programs or activities (20 USC 1681 et seq).

**B.2. General Civil Rights Provision.** Permittee 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. This provision binds the Contractor and subcontractors from the bid solicitation period through the completion of the contract. This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

**B.3. 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. Nondiscrimination:** 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. Cancelling, 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.

**B.4. Subordination of Agreement.** This Agreement, and all provisions hereof, is subject and subordinate to the terms and conditions of the instruments and documents under which Authority acquired the Airport from the United States of America and shall be given only such effect as will not conflict or be inconsistent with the terms and conditions contained in such instruments and documents and any existing or subsequent amendments thereto. This Agreement and all provisions hereof, is subject and subordinate to any ordinances, rules or regulations which have been, or may hereafter be, adopted by Authority pertaining to the Airport. This Agreement, and all provisions hereof, is subject and subordinate to the provisions of any agreement heretofore or hereafter made between Authority and the United States Government relative to the operation or maintenance of the Airport, the execution of which has been required as a condition precedent to the transfer of federal rights or property to Authority for Airport purposes, or the expenditure of federal funds for the Improvements or development of the Airport, including, without limitation, the expenditure of federal funds for the development of the Airport under the provisions of the Federal Aviation Act of 1958, as codified in the United States Code, Title 49, as amended. In addition, this Agreement is subordinate and subject to the provisions of all resolutions heretofore and hereafter adopted by Authority in connection with any revenue bonds issued by Authority with respect to the operations of the Airport, or any improvements to the Airport or any of its facilities, and to the provisions of all documents executed in connection with any such bonds, including, without limitation, any pledge, transfer, hypothecation or assignment made at any time by Authority to secure any such bonds.

**B.5. ADA Compliance.** Permittee shall comply with all federal, state and local rules, laws, codes and ordinances, including, but not limited to, those affecting access, zoning, fire, safety and with the requirements of Title III of The Americans with Disabilities Act of 1990, 42 U.S.C. Section 12101, et seq., and the regulations issued pursuant thereto ("ADA"). Permittee expressly acknowledges the Premises may be nonconforming with respect to certain federal, state and local rules, laws, codes and ordinances, including, but not limited to, those affecting access, zoning, fire, safety and with the requirements of the ADA. Permittee hereby acknowledges that it has investigated the Premises to fully inform and satisfy itself with all aspects of the Premises for ADA compliance. Permittee shall be solely responsible for, and shall promptly make all repairs, replacements, alterations or improvements necessary to comply with all applicable legal requirements, including the ADA, to the extent that such requirements relate to or are triggered

by: (a) Permittee's particular use of, or conduct within, the Premises; (b) the improvements or any other alterations made to the Premises by Facility; or (c) the negligence or willful misconduct of Permittee or its agents, employees, or contractors.

No qualified individual with a disability shall, on the basis of disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of Permittee, or be subjected to discrimination by Permittee.

Permittee shall comply with all federal, state, local and airport regulations, laws, codes and ordinances relating to the ADA, Title II, Title III, and Section 504 of the Rehabilitation Act of 1973, as amended. Facilities shall comply with the 2010 ADA Standards for Accessible Design, California Building Code, and City of Ontario Building Code. Public spaces shall be accessible to persons in wheelchairs.

Permittee shall cooperate fully with any Disabilities related inquiry and or investigation by OIAA. Permittee shall also provide any documents requested by OIAA in support of an inquiry and or investigation into a Disabilities related matter.

Permittee shall submit a monthly report to OIAA with a list of any disability complaints received over the previous month. Negative reports are required. At a minimum, the Month Complaints Report shall include: The date of the complaint, Nature of the complaint, status, resolution. OIAA may make further inquiry based on the reports submitted.

Reports shall be mailed no later than the 15 of the month following the reporting month to OIAA at the following address:

Ontario International Airport Authority  
1923 E. Avion Street  
Ontario, CA 91761

Permittee shall permit service animals, psychiatric service animals, and comfort animals in its public spaces in accordance with the Air Carrier Access Act, 14 CFR 382.

Television sets operated in public areas by Permittee shall provide captioning in accordance with 49 CFR 27.71(i).

In accordance with 49 CFR 27.72, Permittee shall be responsible for the acquisition and use of boarding assistance devices to ensure the provision of mechanical lifts, ramps, or other devices for boarding and deplaning where level-entry loading bridges are not available. Permittee shall further be responsible for the operation, maintenance and training in the use of said equipment at OIAA.

Failure to comply with Disability Regulations may result in fine, suspension or termination.

**B.6. FAA Compliance for Alterations.** To the extent Permittee is subject to Federal Aviation Regulation Part 77 (49 CFR Part 77), Objects Affecting Navigable Airspace, of the Federal Aviation Administration (FAA) Regulations, (See, also 49 U.S.C. Section 44718). Permittee

agrees to comply with the notification and review requirements covered in Part 77 for any planned structure or building at the Premises. Permittee shall be responsible for filing Form 7460-1, Notice of Proposed Construction or Alteration, for any construction and/or height of construction equipment, if required.

**B.7. Verification of Employment Eligibility.**

By executing this Agreement, Permittee verifies that, for its employees, it fully complies with all requirements and restrictions of state and federal law respecting the employment of undocumented aliens, including, but not limited to, the Immigration Reform and Control Act of 1986, as may be amended from time to time, and shall require all contractors, subcontractors, subconsultants, and sub-subcontractors to comply with the same. Such requirements and restrictions include, but are not limited to, examination and retention of documentation confirming the identity and immigration status of each employee of Permittee. Permittee also verifies that it has not committed a violation of any such law within the five (5) years immediately preceding the date of execution of this Agreement, and shall not violate any such law at any time during the term of the Agreement. Permittee shall avoid any violation of any such law during the term of this Agreement by participating in an electronic verification of work authorization program operated by the United States Department of Homeland Security, by participating in an equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, or by some other legally acceptable method. Permittee shall maintain records of each such verification, and shall make them available to the OIAA or its representatives for inspection and copy at any time during normal business hours. The OIAA shall not be responsible for any costs or expenses related to Permittee's compliance with these requirements.

**B.7. California Labor Code Requirements.**

Permittee is aware of the requirements of California Labor Code Sections 1720 et seq. and 1770 et seq., which require the payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects. If the Services are being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and if the total compensation is \$1,000 or more, Permittee agrees to fully comply with such Prevailing Wage Laws, if applicable. Permittee shall defend, indemnify and hold the OIAA, the OIAA Commission, members of the Commission, officers, employees and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with the Prevailing Wage Laws. It shall be mandatory upon the Permittee and all subcontractors to comply with all California Labor Code provisions, which include but are not limited to prevailing wages, employment of apprentices, hours of labor and debarment of contractors and subcontractors.

Effective March 1, 2015, if the services are being performed as part of an applicable "public works" or "maintenance" project, then pursuant to Labor Code Sections 1725.5 and 1771.1, the Permittee and all subcontractors performing such Services must be registered with the Department of Industrial Relations. Permittee shall maintain registration for the duration of the Project and require the same of any subcontractors, as applicable. This Project may also be subject to compliance

monitoring and enforcement by the Department of Industrial Relations. It shall be Permittee's sole responsibility to comply with all applicable registration and labor compliance requirements.



DATE: MAY 22, 2018

SECTION: CONSENT CALENDAR

SUBJECT: AUTHORIZE THE CEO TO NEGOTIATE AND ENTER INTO A LISTING AGREEMENT WITH CBRE AS THE REAL ESTATE BROKER TO REPRESENT THE AUTHORITY IN TAKING THE APPROXIMATELY 200 ACRES OF AUTHORITY OWNED NON-AERONAUTICAL PROPERTY EAST OF HAVEN TO MARKET FOR POSSIBLE LONG-TERM LEASE

RELEVANT STRATEGIC OBJECTIVE: Develop Airport-Related Businesses.

RECOMMENDED ACTION(S): That the Ontario Airport Authority ("OIAA" or Authority") Commission authorize the Authority CEO to negotiate and enter into a "Listing Agreement" with CBRE to represent the Authority in the listing and marketing of approximately 200 acres of Authority owned non-aeronautical property east of Haven Avenue for long-term lease and to manage a competitive selection process in order to assist staff in making a recommendation to the Commission for the selection of a lessee of such property.

FISCAL IMPACT SUMMARY: No negative impact on ONT finances, as any compensation of the broker will be by the lessee as part of the transaction. However, a successful selection process and entrance into a long-term lease would result in millions of dollars of annual revenue to the Authority which could be utilized for capital improvements and to reduce costs to the airlines.

BACKGROUND: The "Boot Property" is generally bounded by Airport Drive to the north, Jurupa Street to the south, Haven Avenue to the west, and Doubleday Avenue to the east and consists of twenty-four (24) separate parcels totaling approximately 200.5 acres within the boundaries of the Ontario International Airport ("ONT" or "Airport"). The Boot Property is further split between "buildable" parcels totaling approximately 147.5 acres, and "yard space" parcels totaling approximately 53 acres that are directly under the final approach to Airport Runways 26L and 26R.

OIAA Staff has determined that the Boot Property currently is not being utilized, and is not needed in the future, for any aeronautical purposes.

STAFF MEMBER PRESENTING: Mark A. Thorpe, Chief Executive Officer

Department: Administration Department

Submitted to OIAA: May 22, 2018

Approved: \_\_\_\_\_

Continued to: \_\_\_\_\_

Denied: \_\_\_\_\_

Chief Executive Officer Approval: Mark A. Thorpe

The Authority acquired the Boot Property in the transfer of ONT from the City of Los Angeles in November 2016. OIAA Staff informs that (1) the City of Los Angeles had acquired the Boot Property in stages from January 1998 to June 1999 using airport revenues, (2) no Passenger Facility Charge (“PFC”) collections or Airport Improvement Program (“AIP”) grant funds were used for the purchase of the Boot Property, and (3) no part of the Boot Property was acquired by a Federal deed.

OIAA Staff has also determined that all existing aeronautical land uses of ONT property are located west of South Haven Avenue, which divides the Airport from north to south. The Boot Property parcels are all east of South Haven Avenue. South Haven Avenue is an eight-lane, principal arterial, divided highway that directly connects to Interstate 10 at an interchange north of the Airport and to Interstate 60 south of the Airport. South Haven Avenue cannot be closed or relocated. While land on both sides of South Haven Avenue is relatively level, the land to the east (where the Boot Property is located) has a slightly higher elevation, and there is an embankment along much of the east side of South Haven Avenue while the land to the west side is approximately twelve (12) feet lower than the road elevation with a retaining wall and embankment along much of the west side.

OIAA Staff determined that Airport land uses abutting to the west side of South Haven Avenue cannot be feasibly connected to the Boot Property for aircraft access east of South Haven Avenue. The central portion of Airport land along South Haven Avenue is in the Federal Aviation Administration (“FAA”) Runway Protection Zones (“RPZs”) for Runways 26L and 26R. The area along the west side of the South Haven Avenue north of the RPZs is currently occupied by the Airport rental car facility (a non-aeronautical use). The parcel along the west side of South Haven Avenue south of the RPZs has an east-west, stub taxiway that is dedicated to through-the-fence access to a privately-owned, exclusive-use aircraft parking ramp for United Parcel Service (“UPS”) aircraft.

Multiple parties have expressed interest to the OIAA about buying or leasing the Boot Property.

At the special meeting of March 23, the Commission authorized the CEO to assemble a committee to solicit proposals from qualified, licensed real estate brokers for the possible long-term lease of the Boot Property, and to review, analyze and rate those proposals regarding ensuring the possible long-term lease at the highest fair market value.

**PROCUREMENT:** The CEO established the review committee approved at the March 23, 2018 special OIAA meeting. That committee was made up of Greg Devereaux, Consultant to the Authority, Mary Jane Olhasso, Assistant Executive Officer of the San Bernardino County, Terry Thompson, Director of Real Property for San Bernardino County, and John Andrews, Economic Development Director for the City of Ontario. The committee solicited proposals from 6 well qualified firms and interviews were held with 5 of those firms, as one firm was unable to participate due to the unavailability of personnel. The committee unanimously decided to recommend CBRE to the Commission.

**CEQA COMPLIANCE AND LAND USE APPROVALS:** The proposed action is not a project under the California Environmental Quality Act (CEQA). Even if the action was deemed to be a project under CEQA, it would be exempt from environmental review pursuant to CEQA Guidelines Section 15312 because the action relates to the possible long-term lease of surplus Authority property.

**STAFFING IMPACT (# OF POSITIONS):** N/A

**IMPACT ON OPERATIONS:** Improvement of facilities through projects funded by income from the lease revenue.

**SCHEDULE:** The broker will work with staff to develop the information and materials required to begin marketing the property this summer. The staff will return to the Commission later this year for the Commission's approval of a potential lessee and transaction.

**ATTACHMENTS: N/A**

*The Agenda Report references the terms and conditions of the recommended actions and request for approval. Any document(s) referred to herein and that are not attached or posted online may be reviewed prior to or following scheduled Commission meetings in the Office of the Clerk of the Commission. Office hours are 8:30 a.m. to 5:00 p.m., Monday through Friday*

This Agenda Report has been reviewed by OIAA General Counsel.