

ONTARIO INTERNATIONAL AIRPORT AUTHORITY

COMMISSION AGENDA – REGULAR MEETING



DECEMBER 23, 2021 AT 2:00 P.M.

Ontario International Airport Authority Administration Offices

1923 East 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

JOHN M. SCHUBERT
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 an 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.
- You may submit public comments by e-mail to publiccomment@flyontario.com no later than 12:00 p.m. the day of the meeting. Please identify the Agenda item you wish to address in your comments. All e-mail comments will be included in the meeting record.
- 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 the board room 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 regular Commission meeting begins at 2:00 p.m. with Closed Session Public Comment and Closed Session, 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) - 2:00 P.M.

ROLL CALL

Loveridge, Bowman, Hagman, Gouw, President Wapner

PLEDGE OF ALLEGIANCE

CLOSED SESSION PUBLIC COMMENT

The Closed Session Public Comment portion of the Commission meeting is limited to a maximum of 3 minutes for each speaker and comments will be limited to matters appearing on the Closed Session.

CLOSED SESSION

CLOSED SESSION

GC section 54956.8: REAL PROPERTY NEGOTIATIONS (portions of Airport);
OIAA General Counsel's office as negotiator.

REPORT ON CLOSED SESSION

General Legal Counsel

PUBLIC COMMENTS

The Public Comment portion of the Commission meeting is limited to a maximum of 3 minutes for each Public Comment. Under provisions of the Brown Act, the Commission is prohibited from taking action on oral requests.

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

Agenda item contractors, subcontractors and agents 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 Commission on items listed on the Consent Calendar will be given a total of 3 minutes.

2. APPROVAL OF MINUTES

Minutes for the Ontario International Airport Authority special meeting on November 23, 2021 and cancelled meeting on November 25, 2021 and approving the same as on file with the Secretary/Assistant Secretary.

3. BILLS/PAYROLL

Bills November 1 through November 30, 2021 and Payroll November 1 through November 30, 2021.

4. APPROVAL OF MEETING STIPENDS

That the Ontario International Airport Authority Commission approve meeting stipends for President Wapner for the month of November, 2021.

5. APPROVAL OF AN AUTHORITY INCREASE TO OIAA CONTRACT NO. SCONT-000291 WITH WALSH CONSTRUCTION COMPANY II, LLC, FOR THE TAXIWAY C IMPROVEMENT PROJECT AT ONTARIO INTERNATIONAL AIRPORT

That the Ontario International Airport Authority (OIAA) Commission authorize the Chief Executive Officer (CEO), or his designee, to increase the existing OIAA Contract No. SCONT-000291 with Walsh Construction Company II, LLC, for the Taxiway C Improvement Project to include the rehabilitation of an unpaved lot used for temporary employee parking in an amount not to exceed \$85,000.

6. APPROVAL OF PURCHASE ORDERS WITH JOAQUIN MANUFACTURING AND THALES AIR TRAFFIC MANAGEMENT U.S. AND AN AMENDMENT TO THE REIMBURSABLE AGREEMENT WITH THE FEDERAL AVIATION ADMINISTRATION FOR RUNWAY 26R INSTRUMENT LANDING SYSTEM UPGRADE PROJECT AT THE ONTARIO INTERNATIONAL AIRPORT

That the Ontario International Airport Authority (OIAA) Commission authorize the Chief Executive Officer (CEO), or his designee, to (1) execute a Purchase Order with JoaQuin Manufacturing in the amount of \$638,939 for manufacture of 3 Navigational Aids (NAVAIDS) equipment shelters; (2) execute a Purchase Order with Thales Air Traffic Management U.S. in the amount of \$68,475 for manufacture of the Far Field Monitor system; (3) execute an Amendment to the Federal Aviation Administration (FAA) Reimbursable Agreement in the amount of \$125,673.12 for procurement of 40 - 1500W transformers; and approve a contingency in the amount of 15% for taxes, shipping and other required equipment.

ADMINISTRATIVE REPORTS/DISCUSSION/ACTION

7. A RESOLUTION OF THE ONTARIO INTERNATIONAL AIRPORT AUTHORITY TO APPROVE AND ADOPT FINDINGS, INCLUDING AS TO “EXEMPT SURPLUS PROPERTY”, REGARDING THE DISPOSITION OF CERTAIN AIRPORT REAL PROPERTY, AND TO APPROVE AND AUTHORIZE THE CHIEF EXECUTIVE OFFICER (CEO), OR THE CEO’S DESIGNEE, TO EXECUTE NECESSARY DOCUMENTATION FOR A DEVELOPMENT AND ENTITLEMENT AGREEMENT AND A LONG-TERM GROUND LEASE FOR SUCH AIRPORT REAL PROPERTY WITH CANAM ONTARIO, LLC

That the Ontario International Airport Authority (OIAA) Commission approve a Resolution making Findings about certain Airport real property, and approving and authorizing the Chief Executive Officer (CEO), or the CEO’s designee, to execute a Ground Lease Agreement and Development and Entitlement Agreement between the OIAA and CanAm Ontario, LLC (CAO). Upon completion of their due diligence the developer will provide a \$10,000,000 non-refundable deposit to OIAA. The rental revenue from CAO to OIAA will be set at the schedule contained in the Ground Lease on the “Commencement Date” of the Lease (which is 18-months after the delivery date or the signing of the Ground Lease). Thereafter, rent will be adjusted annually to the Consumer Price Index, and market adjustment every fifth Lease year. At the end of the lease term, title to CAO’s improvements will become the OIAA’s.

RESOLUTION NO. _____

A RESOLUTION OF THE ONTARIO INTERNATIONAL AIRPORT AUTHORITY TO APPROVE AND ADOPT FINDINGS, INCLUDING AS TO “EXEMPT SURPLUS PROPERTY”, REGARDING THE DISPOSITION OF CERTAIN AIRPORT REAL PROPERTY, AND TO APPROVE AND AUTHORIZE THE CHIEF EXECUTIVE OFFICER (CEO), OR THE CEO’S DESIGNEE, TO EXECUTE NECESSARY DOCUMENTATION FOR A DEVELOPMENT AND ENTITLEMENT AGREEMENT AND A LONG-TERM GROUND LEASE FOR SUCH AIRPORT REAL PROPERTY WITH CANAM ONTARIO, LLC

MANAGEMENT REPORT

Executive Office

COMMISSION MATTERS

President Wapner
Vice President Loveridge
Secretary Bowman
Commissioner Hagman
Commissioner Gouw

ADJOURNMENT



DATE: **DECEMBER 23, 2021**

CLOSED SESSION REPORT

OIAA// (GC 54956.8)

Page 1 of 1

ROLL CALL: Gouw __, Bowman __, Hagman __, Loveridge __, President Wapner __.

STAFF: CEO __, General Counsel __

- GC section 54956.8: REAL PROPERTY NEGOTIATIONS (portions of Airport); OIAA General Counsel's office as negotiator.

No Reportable Action

Continue

Approved

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Disposition: _____

Reported by:

General Legal Counsel / Chief Executive Officer

ONTARIO INTERNATIONAL AIRPORT AUTHORITY



DATE: DECEMBER 23, 2021

SECTION: MINUTE ACTION

SUBJECT: RELATIVE TO POSSIBLE CONFLICT OF INTEREST

RECOMMENDED ACTION(S): Agenda items and contractors/subcontractors 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
5	Walsh Construction Company II	<ul style="list-style-type: none">• All American Asphalt• Aldridge Electric• Crown Fence• LA Steel Services• Penhall Company• Payco Specialties
6	Joaquin Manufacturing	
6	Thales Air Traffic Management U.S.	
7	CanAm Ontario, LLC McDonald Property Group USAA Real Estate Company	

STAFF MEMBER PRESENTING: Natalie Gonzaga, Board Clerk

Department: Clerk's Office Submitted to OIAA: December 23, 2021

**ONTARIO INTERNATIONAL AIRPORT AUTHORITY
SPECIAL COMMISSION MEETING
MINUTES
November 23, 2021
(not official until approved)**

A special meeting of the Ontario International Airport Authority was held on Tuesday, November 23, 2021, 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 9:00 a.m.

ROLL CALL

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

ABSENT: Commissioners: Jim W. Bowman (excused)

Also present were: Deputy Chief Executive Officer Atif J. Elkadi, Assistant General Counsel Kevin Sullivan, and Board Clerk Natalie Gonzaga.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Vice President Loveridge.

PUBLIC COMMENT

Richard Sherman provided an email public comment regarding OIAA growth and development.

AGENDA REVIEW/ANNOUNCEMENT

No announcements were made.

1. INFORMATION RELATIVE TO POSSIBLE CONFLICT OF INTEREST

No conflicts were announced.

CONSENT CALENDAR

MOTION: Moved by Commissioner Hagman, seconded by Commissioner Gouw, and carried by a vote of 4-0-1, to approve consent calendar Items #2-8, with Secretary Bowman absent (excused).

2. APPROVAL OF MINUTES

Approved minutes for the Ontario International Airport Authority regular meeting on October 28, 2021 and special meeting on October 28, 2021, and approving the same as on file with the Secretary/Assistant Secretary.

3. BILLS/PAYROLL

Approved bills October 1 through October 31, 2021 and Payroll October 1 through October 31, 2021.

4. APPROVAL OF MEETING STIPENDS

The Ontario International Airport Authority Commission approved meeting stipends for President Wapner for the month of October 2021.

5. APPROVAL OF A NEW LEASE WITH U.S. GENERAL SERVICES ADMINISTRATION FOR LEASED SPACE IN TERMINALS 2 AND 4 AT ONTARIO INTERNATIONAL AIRPORT

The Ontario International Airport Authority (OIAA) Commission authorized the Chief Executive Officer (CEO), or his designee, to execute a new lease agreement with the U.S. General Services Administration (GSA) for leased breakroom and office space in Terminals 2 and 4 at Ontario International Airport (ONT). GSA will be obligated to pay a total of \$229.45 per square foot per year (psfpy) for 4,895 square feet for its leased spaces in Terminals 2 and 4. This will generate approximately \$93,596.48 per month. The shell rental rate (\$124.23 psfpy) will be adjusted with a step increase of 3.5% each year, and the operating costs (\$105.22 psfpy) will be adjusted via CPI each year.

6. APPROVE AN AUTHORITY INCREASE FOR ELEVATORS ETC., LP, FOR ELEVATOR AND ESCALATOR MAINTENANCE AT ONTARIO INTERNATIONAL AIRPORT

The Ontario International Airport Authority (OIAA) Commission authorized the Chief Executive Officer (CEO), or his designee, to increase the existing OIAA Contract No. SCONT-000195 with Elevators Etc., LP, for the maintenance of elevators and escalators for an amount of \$50,000. Funds for this item are included in the current Fiscal Year 2021-22 Landside Operations Budget.

7. APPROVAL OF CONTRACT WITH SAN BERNARDINO COUNTY INNOVATION AND TECHNOLOGY DEPARTMENT FOR 800MHZ RADIO SERVICES AND MAINTENANCE

The Ontario International Airport Authority (OIAA) Commission authorized the Chief Executive Officer (CEO), or his designee, to enter into a five-year contract agreement with the San Bernardino County Innovation and Technology Department for 800MHz Radio Service and Maintenance for OIAA Departments, for an amount of \$300,000, with a contingency in the amount of \$100,000, for a total not to exceed amount of \$400,000 over the five-year term of the contract. Funding for this contract is approved in the Fiscal Year 2021-22 operating budget. Funding for subsequent years will be requested through the annual budget process.

8. INVESTMENT REPORT FOR THE QUARTER ENDED SEPTEMBER 30, 2021

The Ontario International Airport Authority (OIAA) Commission received and filed the Investment Report for the quarter ended September 30, 2021.

ADMINISTRATIVE REPORTS/DISCUSSION/ACTION

9. APPROVAL OF STRATEGIC GOALS AND OBJECTIVES FOR THE ONTARIO INTERNATIONAL AIRPORT AUTHORITY

The Ontario International Airport Authority (OIAA) Commission approved the updated strategic goals and objectives.

Deputy CEO Elkadi provided a presentation on this item. Vice President Loveridge requested minor edits to the goals and objectives document.

MOTION: Moved by Commissioner Gouw, seconded by Commissioner Hagman, and carried by a vote of 4-0-1, to approve the updated strategic goals and objectives with minor non-material edits, with Secretary Bowman absent (excused).

10. APPROVAL OF A CONCESSION LEASE AGREEMENT WITH SWISSPORT USA, INC., TO OPERATE AND MANAGE THE TWO COMMON-USE AIRPORT CUSTOMER LOUNGES, BRANDED "ASPIRE", IN TERMINAL 2 AND TERMINAL 4 AT ONTARIO INTERNATIONAL AIRPORT

The Ontario International Airport Authority (OIAA) authorized the Chief Executive Officer (CEO), or his designee, to execute a five-year (5), concession lease agreement with Swissport USA, Inc., with one (1) five-year option to extend, to operate and manage two common-use airport customer lounges branded "Aspire" in Terminal 2 and Terminal 4 at Ontario International Airport (ONT).

(not official until approved)

Deputy CEO Elkadi provided a presentation on this item. Commissioners expressed appreciation for the new lounge and asked clarifying questions.

MOTION: Moved by Commissioner Hagman, seconded by Commissioner Gouw, and carried by a vote of 4-0-1, to approve the Swissport USA, Inc. concession lease agreement, with Secretary Bowman absent (excused).

11. FISCAL YEAR 2021-22 BUDGET UPDATE AND QUARTERLY FINANCIAL STATEMENTS FOR THREE MONTHS ENDING SEPTEMBER 30, 2021

The Ontario International Airport Authority (OIAA) Commission (1) received and filed Financial Statements for the three months ending September 30, 2021; and (2) approved budget adjustments for FY 2021-22.

Deputy CEO Elkadi provided a presentation on this item. President Wapner mentioned the agenda item was reviewed by the Finance & Audit Committee and recommended for approval to the Commission.

MOTION: Moved by Commissioner Hagman, seconded by Commissioner Gouw, and carried by a vote of 4-0-1, to approve the budget adjustments for FY 2021-22, with Secretary Bowman absent (excused).

12. APPROVAL OF THE ONTARIO INTERNATIONAL AIRPORT AUTHORITY'S AUDITED FINANCIAL STATEMENTS FOR THE FISCAL YEAR ENDED JUNE 30, 2021

The Ontario International Airport Authority approved the Audited Financial Statements for the fiscal year ended June 30, 2021.

Bryan Gruber of LSL, CPAs, provided a presentation on the audited financial statements for FY 2020- 21. President Wapner mentioned the agenda item was reviewed by the Finance & Audit Committee and recommended for approval to the Commission. Commissioners asked questions related to the audit, including internal control measures, and the previous year findings compared to this year.

MOTION: Moved by Commissioner Hagman, seconded by Commissioner Gouw, and carried by a vote of 4-0-1, to approve Audited Financial Statements for the fiscal year ended June 30, 2021, with Secretary Bowman absent (excused).

MANAGEMENT REPORT

Deputy Chief Executive Officer Elkadi provided updates on passenger and cargo traffic statistics for October 2021, the holiday travel outlook, and the S&P Global rating update for OIAA to an A- minus.

(not official until approved)

COMMISSIONER MATTERS

Commissioner Gouw thanked staff for their work and asked to make sure to prepare ahead of time for surges in passenger traffic.

Commissioner Hagman asked staff to be prepared with CIP project plans to apply for funding from the infrastructure bill, and to use the Commissioners support, as well as State and Federal resources. He asked staff to continue to re-engage with our airline partners for new routes, new airlines, and work towards gaining additional international flights through future logistic plans for international flight arrivals.

Vice President Loveridge wished everyone a Happy Thanksgiving.

President Wapner mentioned his participation in a beneficial tour of ONT Terminal 2 and encouraged other Commissioners to also take a tour. He wished everyone a good holiday season.

ADJOURNMENT

President Wapner adjourned the Ontario International Airport Authority Commission meeting at 9:21 a.m.

RESPECTFULLY SUBMITTED:

NATALIE GONZAGA, BOARD CLERK

APPROVED:

ALAN D. WAPNER, PRESIDENT
ONTARIO INTERNATIONAL AIRPORT AUTHORITY

ONTARIO INTERNATIONAL AIRPORT AUTHORITY
MINUTES
Thursday, November 25, 2021
(not official until approved)

The Regular Meeting scheduled for Thursday, November 25, 2021 at 2:00 p.m. was cancelled due to the Thanksgiving holiday.

Respectfully submitted:

NATALIE GONZAGA, BOARD CLERK

ALAN D. WAPNER, PRESIDENT
ONTARIO INTERNATIONAL AIRPORT AUTHORITY

ONTARIO INTERNATIONAL AIRPORT AUTHORITY



DATE: DECEMBER 23, 2021
SECTION: CONSENT CALENDAR
SUBJECT: ONTARIO INTERNATIONAL AIRPORT AUTHORITY COMMISSION APPROVAL OF STIPENDS AS REQUIRED BY AUTHORITY BYLAWS

RELEVANT STRATEGIC OBJECTIVE: Invest in ONT; Plan for the Future; Master the Basics.

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

FISCAL IMPACT AND SOURCE OF FUNDS: OIAA operating revenue.

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 November 2021, President Wapner attended sixteen (16) additional Authority-related business functions. Full Commission approval is needed to approve payment of these additional stipends.

STAFF MEMBER PRESENTING: Atif J. Elkadi, Deputy Chief Executive Officer

Department: Clerk’s Office Submitted to OIAA: December 23, 2021
Approved: _____
Continued to: _____
Denied: _____
Chief Executive Officer Approval: 

ITEM NO. 04

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).)

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

COMMITTEE RECOMMENDATION: 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, although these hours and review procedures may be modified due to COVID-19 precautions. In that case, the documents may be requested by email at clerk@flyontario.com.

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

ONTARIO INTERNATIONAL AIRPORT AUTHORITY



DATE: DECEMBER 23, 2021

SECTION: CONSENT CALENDAR

SUBJECT: APPROVAL OF AN AUTHORITY INCREASE TO OIAA CONTRACT NO. SCONT-000291 WITH WALSH CONSTRUCTION COMPANY II, LLC, FOR THE TAXIWAY C IMPROVEMENT PROJECT AT ONTARIO INTERNATIONAL AIRPORT

RELEVANT STRATEGIC OBJECTIVE: Invest in ONT.

RECOMMENDED ACTION(S): That the Ontario International Airport Authority (OIAA) Commission authorize the Chief Executive Officer (CEO), or his designee, to increase the existing OIAA Contract No. SCONT-000291 with Walsh Construction Company II, LLC, for the Taxiway C Improvement Project to include the rehabilitation of an unpaved lot used for temporary employee parking in an amount not to exceed \$85,000.

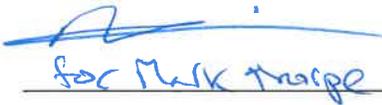
FISCAL IMPACT SUMMARY: Funding for this project is included in the OIAA Fiscal Year 2020-21 budget. This project will be paid with a combination of Passenger Facility Charges (PFC) Program Funds and OIAA appropriations.

BACKGROUND: On August 5, 2020, the OIAA Commission approved an award of contract to Walsh Construction Company II, LLC, (Walsh) for the Taxiway C Improvement Project for \$3,643,929 plus a 10% contingency for an overall construction total of \$4,008,321.90. The project consisted of constructing the new Taxiway C improvement to benefit all ingress and egress users of the northwest quadrant development area. Due to non-conforming safety conditions, the project's scope demoed portions of Taxiway N and D. Surface concrete was removed, crushed, and stored on airport property for use with future projects which may use subgrade recycled material. In November 2021, per Change Order #6, the OIAA selected Walsh to repurpose the subgrade material and rehabilitate an unpaved area located south of Parking Lot 5, east of Terminal 4, for a temporary employee parking lot. Approximately 8 acres were

STAFF MEMBER PRESENTING: Atif J. Elkadi, Deputy Chief Executive Officer

Department: Program Management

Submitted to OIAA: December 23, 2021

Chief Executive Officer Approval: 
for Mark Trudge

Approved: _____
Continued to: _____
Denied: _____

ITEM NO. 05

cleared and graded, an estimated 750 spaces were striped, and k-rails now align the east and west sides as a safety measure. Staff, therefore, requests an authority increase in an amount not to exceed \$85,000 to cover the remaining construction cost associated with the temporary employee lot, which allows for increased parking availability near the terminals for the traveling public.

PROCUREMENT: Not Applicable

CEQA COMPLIANCE AND LAND USE APPROVALS: CATEX has been approved by the FAA. This project is Categorically Exempt (Class 1 and Class 2) from the requirements of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301 provides an exemption for relating to minor alterations to existing structures or facilities involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination, as well as under CEQA Guidelines Section 15302 relating to the reconstruction of existing structures or facilities involving substantially the same purpose and capacity as the structure replaced.

STAFFING IMPACT (# OF POSITIONS): N/A

IMPACT ON OPERATIONS: Increases parking availability near Terminal 2 and Terminal 4.

SCHEDULE: The temporary employee parking lot activities started on November 10, 2021, and was completed in 11 days.

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, although these hours and review procedures may be modified due to COVID-19 precautions. In that case, the documents may be requested by email at clerk@flyontario.com.

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

ONTARIO INTERNATIONAL AIRPORT AUTHORITY



DATE: DECEMBER 23, 2021

SECTION: CONSENT CALENDAR

SUBJECT: APPROVAL OF PURCHASE ORDERS WITH JOAQUIN MANUFACTURING AND THALES AIR TRAFFIC MANAGEMENT U.S. AND AN AMENDMENT TO THE REIMBURSABLE AGREEMENT WITH THE FEDERAL AVIATION ADMINISTRATION FOR RUNWAY 26R INSTRUMENT LANDING SYSTEM UPGRADE PROJECT AT THE ONTARIO INTERNATIONAL AIRPORT

RELEVANT STRATEGIC OBJECTIVE: Invest in ONT.

RECOMMENDED ACTION(S): That the Ontario International Airport Authority (OIAA) Commission authorize the Chief Executive Officer (CEO), or his designee, to (1) execute a Purchase Order with JoaQuin Manufacturing in the amount of \$638,939 for manufacture of 3 Navigational Aids (NAVAIDS) equipment shelters; (2) execute a Purchase Order with Thales Air Traffic Management U.S. in the amount of \$68,475 for manufacture of the Far Field Monitor system; (3) execute an Amendment to the Federal Aviation Administration (FAA) Reimbursable Agreement in the amount of \$125,673.12 for procurement of 40 - 1500W transformers; and approve a contingency in the amount of 15% for taxes, shipping and other required equipment.

FISCAL IMPACT SUMMARY: Funds for this project are included in the recent Series 2021 bond issuance. The Runway 26R ILS Upgrade project has an estimated cost of \$6,100,000. The amounts indicated above for NAVAIDS equipment shelters manufacture, Far Field Monitor manufacture and FAA Reimbursable Agreement Amendment are included in the approved bond amount of \$6,100,000.00. JoaQuin Manufacturing requires 30% deposit payment of \$191,681.70, to commence manufacture of the NAVAIDS equipment shelters. The balance of the \$6,100,000 project budget is allocated toward construction costs and a subsequent FAA Reimbursable Agreement Amendment required to activate, commission and accept all the equipment during and after installation. A construction contract and the

STAFF MEMBER PRESENTING: Atif J. Elkadi, Deputy Chief Executive Officer

Department: Program Management

Submitted to OIAA: December 23, 2021

Approved: _____

Continued to: _____

Denied: _____

Chief Executive Officer Approval: 
for Mark Thorpe

ITEM NO. 06

subsequent FAA Reimbursable Agreement Amendment will be brought to the Commission for approval at a future date.

BACKGROUND: The Runway 26R ILS Upgrade project is the “second stage”, with the Runway 26R TDZ Lights being the first stage, of upgrading Runway 26R to ILS CAT IIIB and directly benefits all airfield users. At the June 24, 2021, Commission Meeting, the Commission approved approve the Runway 26R Instrument Landing System (ILS) Upgrade Project to upgrade the runway to Category (CAT) IIIB, the highest safety approach level; (2) authorize the Chief Executive Officer (CEO) to execute a Task Order with Mead & Hunt in the amount of \$241,000 to accomplish the design services; (3) authorize the CEO to execute a contract with New Bedford Panoramex (NBP) in the not-to-exceed amount of \$2,700,000 for manufacture of the Approach Lighting System with Sequence Flashing Lights (ALSF-2); and (4) authorize the CEO to execute the Federal Aviation Administration (FAA) Reimbursable Agreement in the amount of \$164,310.38.

The ILS is a precision instrument approach that can accommodate industry-standard low visibility approaches, ILS CAT IIIB with Runway Visual Range (RVR) as low as 150 feet and Height Above Touchdown (HAT) as low as zero feet. Without them, runways are not able to accommodate the lowest visibility approaches and to safely guide pilots to the runway during times of inclement weather. Currently, at ONT, Runway 26L is the only runway with an ILS CAT IIIB approach. The existing Runway 26R supports an ILS CAT I approach with RVR down to one-half of a mile and HAT down to 200 feet.

The Runway 26R ILS Upgrade project will involve the manufacture and installation of 3 NAVAIDS equipment shelters to house the Approach Lighting System with Sequence Flashing Lights (ALSF-2 system). The 3 NAVAIDS equipment shelters will be manufactured by JoaQuin Manufacturing located in Commerce City, Colorado, which is the only FAA approved manufacturer of these airfield shelters. The 3 NAVAIDS shelters will take 4.5 - 6 months to manufacture. The Far Field Monitor will be manufactured by Thales Air Traffic Management U.S. located in Overland Park, Kansas, which is the only FAA approved manufacturer. Due to the Runway 26R ILS Upgrade project being a NAVAID, the FAA via the Reimbursable Agreement, will provide the 40 – 1500W transformers from their depot in Oklahoma.

The Project’s scope of work will involve engineering design, manufacture of the ALSF-2 System, construction, construction administration and construction management services for the Runway 26R ILS Upgrade. The Project will also involve the phased demolition and removal of the existing Runway 26R medium Intensity approach lighting system (MALSR) to allow construction and installation of the ALSF-2 system. The scope for this Project also includes control and topographic survey, geotechnical analysis and a construction safety and phasing plan for preparation of the contract documents.

Project costs for the manufacture of the NAVAIDS shelters, Far Field Monitor and the procurement of FAA transformers are not eligible for FAA Airport Improvement Program (AIP) Grant funding. However, the Runway 26R ILS Upgrade project’s total estimated cost of \$6,100,000 was included in the recent secured Series 2021 Bond Issuance.

PROCUREMENT: JoaQuin is the only FAA-certified manufacturer of 3 airfield NAVAIDS equipment shelters. Thales Air Traffic Management U.S. is the only FAA-certified manufacture for the Far Field Monitor. The FAA Depot is the only location where the required 1500W transformers exist

A future procurement will identify a construction contractor to perform the installation of the shelters and equipment and that contract will be brought to the Board at that time.

CEQA COMPLIANCE AND LAND USE APPROVALS: A CATEX has been approved by the FAA on this item. This project is also exempt from CEQA review under CEQA Guidelines sections 15301(f) regarding the repair and maintenance of existing facilities for safety purposes, and 15302 regarding the replacement of existing facilities having the same purpose and capacity as the replaced facilities.

STAFFING IMPACT (# OF POSITIONS): N/A

IMPACT ON OPERATIONS: During construction, the Runway 26R-8L will be closed during the daytime for 3-6 months commencing approximately June 2022. Strategic phasing will be employed to accommodate aircraft ingress/egress to the north side of the ONT airfield. For the ONT cargo peak seasons, the runways will be open for service.

SCHEDULE: JoaQuin Manufacturing will take 4.5 - 6 months to manufacture the 3 NAVAIDS shelters. The construction of the Runway 26R ILS Upgrade will be accomplished via a coordinated and strategic program phasing plan and is scheduled to commence in June of 2022 and complete in Q1-2023.

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, although these hours and review procedures may be modified due to COVID-19 precautions. In that case, the documents may be requested by email at clerk@flyontario.com.

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



DATE: DECEMBER 23, 2021

SECTION: ADMINISTRATIVE REPORTS/DISCUSSION/ACTION

SUBJECT: A RESOLUTION OF THE ONTARIO INTERNATIONAL AIRPORT AUTHORITY TO APPROVE AND ADOPT FINDINGS, INCLUDING AS TO "EXEMPT SURPLUS PROPERTY", REGARDING THE DISPOSITION OF CERTAIN AIRPORT REAL PROPERTY, AND TO APPROVE AND AUTHORIZE THE CHIEF EXECUTIVE OFFICER (CEO), OR THE CEO'S DESIGNEE, TO EXECUTE NECESSARY DOCUMENTATION FOR A DEVELOPMENT AND ENTITLEMENT AGREEMENT AND A LONG-TERM GROUND LEASE FOR SUCH AIRPORT REAL PROPERTY WITH CANAM ONTARIO, LLC

RELEVANT STRATEGIC OBJECTIVE: Invest in ONT; Plan for the Future.

RECOMMENDED ACTION(S): That the Ontario International Airport Authority (OIAA) Commission approve a Resolution making Findings about certain Airport real property, and approving and authorizing the Chief Executive Officer (CEO), or the CEO's designee, to execute a Ground Lease Agreement and Development and Entitlement Agreement between the OIAA and CanAm Ontario, LLC (CAO).

FISCAL IMPACT SUMMARY: Upon completion of their due diligence the developer will provide a \$10,000,000 non-refundable deposit to OIAA. The rental revenue from CAO to OIAA will be set at the schedule contained in the Ground Lease on the "Commencement Date" of the Lease (which is 18-months after the delivery date or the signing of the Ground Lease). Thereafter, rent will be adjusted annually to the Consumer Price Index, and market adjustment every fifth Lease year. At the end of the lease term, title to CAO's improvements will become the OIAA's.

BACKGROUND: Of the 216 acres that the OIAA owns east of Haven Avenue, north of Jurupa Avenue and south of Airport Drive (the Property), 197.848 is developable. In February 2021, CBRE on behalf of the OIAA initiated an Offering of Memorandum for the development of the Property. The Offering of Memorandum went out to CBRE's bidder list, which included more than 4,800 potential bidders nationwide. The Offering Memorandum requested proposals for industrial logistics development related to the warehousing and distribution of goods and products (the Project) on the Property.

STAFF MEMBER PRESENTING: Atif J. Elkadi, Deputy Chief Executive Officer

Department: Commercial

Submitted to OIAA: December 23, 2021

Approved: _____

Continued to: _____

Denied: _____

Chief Executive Officer Approval:  For Mark Troop

The first round offers received on April 9th, 2021, included seventeen (17) responsive bidders. The second round of offers received on April 26th, 2021, included twelve (12) responsive bidders. The final round of offers received on May 12, 2021, included five (5) responsive bidders.

After interviews and following an update report provided in July 2021 to the OIAA Commission in closed session, lease and development terms were negotiated with USAA Real Estate Company/McDonald Property Group. The estimated ground lease annual cash flows are as follows:

Total Acres	Total Rentable Land (Net)	197.848
Total Land Area SF		8,618,259

Ground Rent Escalations (applies every 5 years)			Total Annual Rent	Annual Land Rent/ PSF
Initial	2024-2028	increase	\$ 25,079,133	\$ 2.91
1st Adjust	2029	17.50%	\$ 29,467,982	\$ 3.42
2nd	2034	17.50%	\$ 34,624,878	\$ 4.02
3rd	2039	17.50%	\$ 40,684,232	\$ 4.72
4th	2044	15%	\$ 46,786,867	\$ 5.43
5th	2049	15%	\$ 53,804,897	\$ 6.24
6th	2054	15%	\$ 61,875,632	\$ 7.18
7th	2059	10%	\$ 68,063,195	\$ 7.90
8th	2064	10%	\$ 74,869,514	\$ 8.69
9th	2069	10%	\$ 82,356,466	\$ 9.56
10th	2074	10%	\$ 90,592,112	\$ 10.51

Summary of Lease Terms

Leasehold Area(s). Following the possible execution of the Ground Lease, CAO will develop the Property, which totals approximately 197.848 net acres located east of Haven Avenue, north of Jurupa Avenue, south of Airport Drive, and west of Carnegie Avenue, for the Project.

Term(s). The Lease will be a total of fifty-five (55) years after which all tenant improvements revert to the OIAA's ownership.

Rent. Refer to cash flows table in background section.

FAA Requirement(s). Special consideration was given to ensure compliance with federal statute, airport sponsor obligations, and FAA policy. While the FAA is not required to approve all leases, concurrence by the FAA is encouraged in this situation, especially given the fifty-five (55) year term.

Summary of Development & Entitlement Agreement

The Development and Entitlement Agreement (DEA) allows time for the developer (CAO) to obtain local jurisdictional entitlements and CEQA approvals for the development of the Project.

Developer Obligations. Developer is obligated to use commercially reasonable efforts to process all documents necessary for full and final zoning and CEQA approvals from the City of Ontario and all other governmental agencies.

Developer is obligated to spend significant sums to acquire permits from applicable resource agencies and additional sums on a pari passu basis if OIAA matches those funds.

If these amounts have been expended and five (5) years have elapse, Developer has the option of not proceeding.

OIAA Obligations. OIAA shall cooperate with Developer to process all zoning and CEQA approvals and obtain all governmental clearances (including California Department of Fish and Wildlife and USFW) for all habitat conditions to allow for the development of the contemplated Project.

Lease. All the following shall be satisfied prior to execution of the Ground Lease:

- 1) Receipt by Developer of full zoning, CEQA and Site Plan approval by the City of Ontario;
- 2) Clearance of mitigation plans by required government agencies;
- 3) Receipt by Developer of building permits for the initial buildings shall be approved and ready to be issued; and
- 4) Receipt by Developer of all governmental approvals for development of the Project and resolution of any judicial challenges to such approvals.

Thirty (30) days after the Conditions to Lease are satisfied, the OIAA and Developer shall proceed to closing and execute and deliver the Ground Lease and Memorandum of Ground Lease.

The Property is not Required for Other Authority Purposes.

The Property has been vacant and unused for decades. OIAA has determined that the Property is not suited for use for typical Authority or Airport aeronautical purposes, such as runways, taxiways, terminals, hangars, and similar Airport facilities because the Property is physically separated and removed from the balance of the Airport by Haven Avenue, which runs along the entire western limits of the Property. Accordingly, the Property is not required for other Authority purposes.

State and Federal Safety and Noise Laws and Regulations Prohibit the Property From Being Developed with Residential Housing.

Certain State and federal-imposed laws and regulations restrict and prevent use of the Property for residential purposes due to safety concerns and high noise levels. The Property is at the eastern end of the runway and directly below the flight path for the Airport.

The California State Aeronautics Act (Public Utilities Code section 21670 *et seq.*) requires each airport to adopt an Airport Land Use Compatibility Plan for the purpose to “discourage incompatible land uses near existing airports (Pub. Util. Code, §§ 21674, § 21674.7, 21675, 21676, 21676.5.) The Ontario International Airport Compatibility Plan, amended in July 2018 (linked at <https://www.ontarioca.gov/planning/ont-iac> at Compatibility Plan), limits certain land uses near the airport based on state and FAA requirements. (Compatibility Plan, pp. 1-1, 1-2; see also Compatibility Plan, Appendix A, State Laws and Appendix B, Federal Aviation Regulations.) The policies set forth in the Airport Compatibility Plan that limit land uses are requirements for surrounding jurisdictions, such as OIAA. (*Id.* at p. 2-4; see also Exhibit 2A: Affected Jurisdictions.)

The Airport Compatibility Plan required under State law adopts safety compatibility policies to minimize risks associated with off-airport accidents or emergency landings. More safety restrictions are set on residential land uses because residential uses warrant a greater degree of protection. (Compatibility Plan, p. 2-14.) The Compatibility Plan creates five safety zones. (Compatibility Plan, p. 2-15.) “Residential development is **incompatible within all Safety Zones** (1 through 5).” (*Id.* at p. 2-15; see pp. 2-34 and 2-41.) “New mixed-use developments **will locate the residential component outside of all safety zones.**” (*Id.* at pp. 2-15; see p. 2-41.) The Property is located within Safety Zones 1, 2, and 3 in the Compatibility Plan. (*Id.* At Safety Zone Map 1-8; see Appendix I, at I-13.) Residential development is therefore prohibited under State law for the Property under the Compatibility Plan’s Safety Policies.

The Airport Compatibility Plan also establishes noise polices based on state regulations. (*Id.* at p. 2-21.) The purpose of the noise policies is to “avoid the establishment of noise-sensitive land uses in the portions of the [Ontario Airport] that are exposed to significant levels of aircraft noise.” (*Id.* at p. 2-19.) Residential uses are incompatible with airport land areas with noise exposure CNEL 70 dB and above. (*Id.* at Table 2-3 at p. 2-47.) Noise Policy SP3 states: “Residential infill development **should not be allowed in areas exposed to exterior noise levels equal to or greater than CNEL 70 dB.**” (*Id.* at p. 2-34.) The Property is located directly below the flight path for the Airport. (Compatibility Plan, Modeled Flight Routes, Exhibit 1-13.) The Property is within the high noise impact zones of CNEL 70-75 dB and CNEL 75+ dB. (*Id.* at p. 1-10 and Noise Map Exhibit 1-9; see Appendix I, at I-5.) Thus, residential development is not allowed on the Property under the Compatibility Plan’s noise policies. (*Id.* at Noise Map Exhibit 1-9; see Appendix I, at I-6 [map of areas with residential land use designation, do not include Property, or anywhere near the Property].)

FAA regulations require OIAA to “take appropriate action . . . to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations.” (49 U.S.C. § 47107(a)(10); see also FAA Order 5190.6B, (linked at: [FAA Order 5190.6B Change 1, Airport Compliance Manual, 22 November 2021.](#)) This is considered a “federal obligation to ensure compatible land use.” (FAA Order 5190.6B, p. 20-2.) “Incompatible land use at or near airports may result in the creation of hazards to air navigation and reductions in airport utility resulting from obstructions to flight paths or noise-related incompatible land uses resulting from residential construction too close to the airport.” (*Id.* at p. 20-

1.) “Residential housing and other land uses near airports must remain compatible with airports and the airport approach/departure corridors.” (*Id.* at p. 20-1.) **“Restricting residential development near the airport is essential in order to avoid noise-related problems.”** (*Id.* at p. 20-2.) FAA Order 5190.6B also states, **“The general rule on residential use of land on or near airport property is that it is incompatible with airport operations because of the impact of aircraft noise and, in some cases, for reasons of safety, depending on the location of the property.”** (*Id.* at p. 20-5.) In sum, FAA Order 5190.6B mandates that OIAA ensures compatible land uses with land on or immediately surrounding the Airport, and that it therefore restrict residential housing on the Property, which is located directly below the flight path for the Airport and is within areas affected by high noise levels.

Based on these State and federal laws and regulations, the Property is “exempt surplus property” under Government Code section 54221(f)(1)(G) where housing would be prohibited from being developed.

The Property is suitable for use and development of industrial uses regarding the Project consistent with the Airport Compatibility Plan.

PROCUREMENT: An Offering of Memorandum process was conducted by CBRE under the direction of the Greg Devereaux, Director of Development and Elisa Grey, Director of Commercial Real Estate with the OIAA, along with John Andrews, Economic Development with the City of Ontario and Terry Thompson, Real Estate Services Director with the County of San Bernardino. OIAA’s Offering Memorandum and the related request for proposals or bids process for the long-term ground lease and development of the Property summarized above confirmed that the proposed Ground Lease with CanAm Ontario, LLC, will provide OIAA with fair market value for lease of the Property. The proposed Ground Lease between OIAA and CanAm will provide lease rentals and revenues for the Property that exceed the determinations of fair market value for the Property contained in three (3) separate appraisals for the Property prepared in 2020.

CEQA COMPLIANCE AND LAND USE APPROVALS: No development activity or ground disturbance relating to the proposed Project will occur on the Property, and no Ground Lease will be executed, until all applicable environmental reviews and approvals have been obtained and issued. Given the unique circumstances that the Property is non-aeronautical lands of the Airport, the City of Ontario will be (i) the lead agency for purposes of compliance by the Project with the California Environmental Quality Act (CEQA), Public Resources Code § 21000 *et seq.*, and (ii) the zoning approval authority relating to the Premises and the Project. Before approval by OIAA of any Ground Lease for the Premises, or the allowance of any development activity on the Premises related to the Project, CAO shall be required to obtain all applicable land use, zoning, and CEQA reviews, approvals, and certifications for the Project (collectively “Government Approvals”), and shall implement any requirements under such Governmental Approvals, including, without limitation, any mitigation measures required as a result of compliance with CEQA.

STAFFING IMPACT (# OF POSITIONS): N/A

IMPACT ON OPERATIONS: N/A

ATTACHMENTS: Attachment A – Development and Entitlement Agreement by and between the OIAA and CanAm Ontario, LLC.

Attachment B – Resolution making certain Findings about the Property, and approving the Development and Entitlement Agreement and Ground Lease Agreement for the Property with CanAm Ontario, LLC

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, although these hours and review procedures may be modified due to COVID-19 precautions. In that case, the documents may be requested by email at clerk@flyontario.com.

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

DEVELOPMENT AND ENTITLEMENT AGREEMENT

BY AND BETWEEN

**ONTARIO INTERNATIONAL AIRPORT AUTHORITY,
A JOINT POWERS AUTHORITY**

AND

**CANAM ONTARIO, LLC,
A DELAWARE LIMITED LIABILITY COMPANY**

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EXHIBITS

- Exhibit A-1 - Depiction of Property
- Exhibit A-2 - Legal Description of Property
- Exhibit B - Ground Lease
- Exhibit C - Estoppel Certificate
- Exhibit D - Non-Foreign Affidavit (FIRPTA)
- Exhibit E - Site Plan
- Exhibit F - Memorandum of Agreement
- Exhibit G - Permitted Exceptions

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DEVELOPMENT AND ENTITLEMENT AGREEMENT

THIS DEVELOPMENT AND ENTITLEMENT AGREEMENT ("Agreement" or "DEA") is made as of December __, 2021 (the "**Effective Date**"), by and between ONTARIO INTERNATIONAL AIRPORT AUTHORITY, a joint powers authority ("**OIAA**") and CanAm Ontario, LLC, a Delaware limited liability company or its permitted assignee ("**Developer**"), with reference to the following:

A. OIAA is the fee owner of certain real property consisting of approximately 197.848 net acres located in the City of Ontario ("**City**"), County of San Bernardino ("**County**"), State of California ("**State**") depicted on Exhibit A-1 and legally described in Exhibit A-2 attached hereto (together with any easements appurtenant thereto, the "**Premises**" or "**Property**"). The Premises are located in close proximity to the Ontario International Airport (the "**Airport**"), which OIAA operates and maintains for the benefit of the Southern California economy and the residents of the Airport's four-county area.

B. Developer desires to obtain entitlements for the development of an industrial project generally described on the site plan attached as Exhibit "E" (the "**Project**") on the Premises which business will benefit the Southern California economy.

C. Developer desires to obtain all entitlements for the Property and then ground lease the Premises for the purpose of constructing improvements and operating the Project. Given the unique circumstances that the Premises or Property are non-aeronautical lands of the Airport, the City of Ontario will be (i) the lead agency for purposes of compliance by the Project with the California Environmental Quality Act ("**CEQA**"), and (ii) the zoning approval authority relating to the Premises and the Project. Before execution by OIAA of any Ground Lease for the Premises, or the allowance of any development activity on the Premises related to the Project, Developer shall be required to obtain all applicable land use, zoning, and CEQA reviews, approvals, and certifications for the Project (collectively "**Government Approvals**"), and shall satisfy after execution of the Ground Lease any requirements under such Governmental Approvals, including, without limitation, any mitigation measures required as a result of compliance with CEQA.

NOW, THEREFORE, in consideration of the foregoing, the mutual covenants and agreements hereinafter contained and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

ARTICLE 1 BASIC DEFINITIONS AND EXHIBITS

1.1 Basic Definitions. In addition to the terms defined throughout this Agreement, for purposes of this Agreement, each of the following terms, when used herein with an initial capital letter, shall have the meaning ascribed to it as follows:

(a) "**Contingency Period**" shall mean the period commencing on the Effective Date and expiring sixty (60) days thereafter.

(b) "**Deposit**" means the sum of \$10,000,000.00.

(c) "Escrow Holder" and "Title Company" means First American Title Insurance Company, 777 South Figueroa Street, Suite 400, Los Angeles, CA 90017, Attn: Liz Thymius.

(d) "Ground Lease" means the ground lease of the Premises in a form attached hereto as Exhibit B.

(e) "Premises" and "Property" mean all of the items referred to in subparagraphs (1) and (2):

(1) Property. The real Property legally described in Exhibit A attached hereto.

(2) Appurtenances. All rights, licenses, remainders, reversions, privileges and easements appurtenant to the Property to the extent owned by the OIAA, including, without limitation, (A) all development rights, air rights, water, water rights, mineral rights and water stock relating to the Property, (B) all other easements, rights-of-ways or appurtenances used in connection with the beneficial use and enjoyment of the Property, and (C) all right, title and interest of any OIAA in and to any streets, alley, passages, storm drains, sewer and other utility capacity, and other appurtenances included in, adjacent to, benefiting, or used in connection with the Property (all of which are collectively referred to as the "Appurtenances");

1.2 Exhibits. Attached hereto and forming an integral part of this Agreement are the following exhibits, all of which are incorporated into this Agreement as fully as if the contents thereof were set out in full herein at each point of reference thereto:

Exhibit A-1	Depiction of Property
Exhibit A-2	Legal Description of Property
Exhibit B	Ground Lease
Exhibit C	Estoppel Certificate
Exhibit D	Owner's Affidavit
Exhibit E	Site Plan
Exhibit F	Memorandum of Agreement
Exhibit G	Permitted Exceptions

ARTICLE 2 TRANSACTION STRUCTURE

2.1 Agreement. OIAA and Developer desire to cooperate to obtain land use and zoning entitlements and process clearance for various environmental mitigation conditions under CEQA or other applicable law related to the Property, to prepare the Property for the execution of a ground lease and development of an industrial warehouse project that will benefit the economy and generate economic support for Ontario International Airport.

2.2 Deposit.

(a) Deposit Terms.

(1) Developer shall deposit with Escrow Holder the sum of Ten Million Dollars (\$10,000,000) within 3 business days after the Effective Date.

(2) The Deposit shall be non-refundable (except for a Material Default [as defined herein] by OIAA) at the expiration of the Contingency Period, in the event Developer elects to proceed with the transaction at the expiration of the Contingency Period.

(3) Should Developer not terminate this Agreement on or before the expiration of the Contingency Period, Escrow Holder shall, within two (2) business days after the expiration of the Contingency Period, instruct Escrow Holder to release the Deposit to OIAA. Such release of the Deposit to OIAA, in the event Developer does not terminate this Agreement on or before the expiration of the Contingency Period, is a material inducement for OIAA to enter into this Agreement.

(4) In the event the Deposit is released to OIAA, \$7,000,000 of the Deposit shall be deemed consideration for this Agreement and \$3,000,000 of the Deposit shall be applicable to the first accruing Ground Rent (as defined in the Ground Lease) under the Ground Lease, if such Ground Lease is executed by Developer.

(b) Independent Contract Consideration. At the same time as the Deposit is provided to Escrow Holder as provided above, Developer shall deliver to OIAA a check in the sum of One Hundred Dollars (\$100.00) (the "**Independent Contract Consideration**") which amount has been bargained for and agreed to as consideration for Developer's exclusive right to enter into a Ground Lease and the Contingency Period provided hereunder, and for OIAA's execution and delivery of this Agreement. Notwithstanding anything to the contrary contained herein, the Independent Contract Consideration is in addition to and independent of all other consideration provided in this Agreement and is nonrefundable in all events.

2.3 Closing and Escrow.

(a) Closing. The "**Closing**" of this Agreement shall mean the date on which Escrow Holder receives from Developer and OIAA all funds and documents required to be delivered hereunder to Escrow Holder (including the executed Ground Lease), Developer and OIAA have authorized Escrow Holder to close this transaction and release the executed Ground Lease, and Escrow Holder confirms that the Closing has occurred, the Memorandum (as defined herein) has been recorded and it is committed to issue the Title Policy (as defined herein). Closing shall occur 30 days after satisfaction of the Conditions to Lease as set forth in Section 4.1(f) and full execution of the Ground Lease. Such Closing shall take place through the Escrow Holder, whereby OIAA and Developer need not be physically present and may deliver documents by overnight courier or other means.

(b) Escrow. Within one (1) business day after the Effective Date Developer and OIAA, Developer shall deliver a fully executed copy of this Agreement to Escrow Holder. This Agreement shall constitute the joint escrow instructions of Developer and OIAA to Escrow Holder, and upon the opening of escrow, Escrow Holder is authorized to act in accordance with the terms of this Agreement. Upon Escrow Holder's request, the parties shall execute such

additional and supplementary escrow instructions as may be appropriate or reasonably required by Escrow Holder to enable the Escrow Holder to comply with the terms of this Agreement; provided, however, that if there is any conflict or inconsistency between such general provisions and this Agreement, this Agreement shall control.

(c) OIAA's Deliveries in Escrow. One day prior to the Closing, OIAA shall deliver to Escrow Holder for delivery to Developer the following:

(1) Ground Lease. The Ground Lease, duly executed by OIAA;

(2) Ground Lease Memorandum. The Ground Lease Memorandum in the form to be agreed upon prior to the expiration of the Contingency Period and which shall be attached as an exhibit to the Ground Lease (the "**Memorandum**"), duly executed and acknowledged by OIAA, together with a separate statement of transfer taxes; and

(3) Owner's Affidavit. An Owner's Affidavit in the form attached hereto as Exhibit D the ("**Affidavit**") and such other organizational documents and certificates as the Title Company may require from OIAA as a condition to issuance of the Title Policy without exception for parties in possession or mechanic's liens and subject only to the Permitted Exceptions, as defined in Section 2.6(e) below.

(4) Estoppel Certificate. An Estoppel Certificate confirming no defaults under the Agreement.

(d) Developer Deliveries in Escrow. One day prior to the Closing, Developer shall deliver to Escrow Holder for delivery to OIAA, unless otherwise noted, the following:

(1) Ground Lease. The Ground Lease, duly executed by Developer.

(2) Memorandum. The Memorandum, duly executed by Developer and notarized.

(3) Preliminary Change of Ownership Report. A Preliminary Change of Ownership Report, completed and executed by Developer, unless Developer elects to pay the additional fee for not filing such Report at the time the Memorandum is recorded.

(e) Other Documents. OIAA and Developer shall, prior to the Closing, execute any and all documents and perform any and all acts reasonably necessary or appropriate to effectuate the Closing pursuant to the terms of the transaction set forth in this Agreement, including, without limitation, a closing statement reflecting all prorations, adjustments and closing costs, and escrow instructions for Closing, and such other documentation as the Title Company may reasonably require for the issuance of the Title Policy.

2.4 Closing Statements. OIAA and Developer shall deposit with the Escrow Holder executed closing statements consistent with this Agreement in the form required by the Escrow Holder.

2.5 Possession. OIAA shall deliver sole possession of the Property to Developer at the Closing.

2.6 Title and Survey.

(a) Title Commitment. OIAA has obtained from the Title Company a preliminary title report covering the fee of the Property ("**Preliminary Report**") and a title commitment with respect to the leasehold interest of the Property ("**Title Commitment**"), together with copies of all exceptions and matters referred to therein .

(b) Survey. Developer has at Developer's cost and expense obtained an ALTA survey of the Property, prepared by a surveyor or civil engineer licensed in California. The survey shall be certified to Developer and the Title Company and such other persons as Developer may direct (the "**Survey**").

(c) Title and Survey Review. Developer shall within thirty days after the Effective Date ("**Title Date**") notify OIAA of any exceptions, qualifications, conditions, or matters shown in the Survey or disclosed in the Preliminary Report and/or the Title Commitment that are not acceptable to Developer in its discretion (all such items and all monetary liens, deeds of trust or encumbrances shall be referred to as "**Title Objections**"). The failure of Developer to provide written notice of any Title Objections on or before the Title Date shall be deemed an approval of all matters shown or disclosed in the Preliminary Report, Title Commitment and Survey, except for Monetary Liens (as defined below), which shall be deemed Title Objections even if Developer does not provide written notice of Title Objections for the Monetary Liens. In the event any lien, encumbrance or other new title matter appears of record or is raised in the Title Commitment after the date of Developer's Title Objection or after the Contingency Period, Developer may, within five (5) business days after receiving written notice of such matter deliver a new Title Objection to OIAA and Escrow Holder; Developer's failure to object to any such new matter within such time period shall be deemed an approval of the matter disclosed, except for any Monetary Lien, which shall be deemed a Title Objection even if Developer does not provide written notice thereof.

(d) OIAA's Right to Cure. OIAA shall have the right, upon delivery of written notice to Developer no later than three (3) days after receipt of Developer's notice of Title Objections, to (i) elect by written notice to Developer and Escrow Holder to cause the Title Objections to be removed of record or otherwise cured to the satisfaction of Developer in its discretion by the Closing ("**Approved Title Objections**"), or (ii) elect not to cure; provided, however, that notwithstanding anything to the contrary stated herein, OIAA must cure all exceptions relating to deeds of trust, mortgages, liens or other encumbrances representing monetary liens which can be removed by the payment of money, other than non-delinquent taxes and assessments ("**Monetary Liens**"). If OIAA fails to deliver written notice to Developer within the three (3) day period described above, OIAA shall be deemed to have elected the right in clause (ii) above. If OIAA elects not to cure such Title Objections as provided in clause (ii) (or is deemed to have elected the rights in clause (ii) above), then Developer shall have the right, upon written notice to OIAA, to accept the Ground Lease subject to such matters. If OIAA does not remove by the Closing all Approved Title Objections (as provided in clause (i) in this subparagraph (d)) or Monetary Liens, OIAA shall be in default under this Agreement, in which

case, Developer shall have all rights and remedies available under this Agreement, or at law or in equity.

(e) Permitted Exceptions. The title exceptions and Survey matters Developer has agreed in writing to accept (or is deemed to have accepted) as provided herein shall be referred to herein as the "**Permitted Exceptions**." The Permitted Exceptions shall be attached as Exhibit G at the end of the Contingency Period.

(f) Leasehold Policy/Title Commitment; Proforma Policy. At Closing and as a condition thereto for Developer's benefit, (i) the Title Company shall issue to Developer a ALTA Owner's Extended Policy of Title Insurance with an ALTA 13 Leasehold Endorsement, insuring that first priority leasehold title to the Property is vested solely in Developer, subject only to the Permitted Exceptions, with liability in the amount set by Developer prior to Closing (the "**Title Policy**"), and (ii) all Monetary Liens will be satisfied by OIAA to allow the Title Policy to be issued subject only to the Permitted Exceptions. Prior to the end of the Contingency Period, provided Developer elects not to terminate the Agreement, Developer shall have the Title Company issue a Proforma Title Policy ("**Proforma Title Policy**") reflecting the approved condition of title for the Property.

2.7 Developer Obligations.

(a) Developer shall be obligated to, at the sole cost and expense, use commercially reasonable efforts to process all documents necessary for full and final CEQA approvals from the City of Ontario and all other governmental agencies. Prior to the expiration of the Contingency Period, Developer will provide a target schedule for processing the CEQA documents, including target timelines for studies and reports.

(b) Developer shall not be obligated to expend more than Developer's Cost Cap (as set forth in Developer's budget which will be provided to OIAA prior to the expiration of the Contingency Period) to resolve environmental mitigation and to acquire all permits or clearances from all applicable resource agencies (including cost of biologists, consultants, the purchase of land or conservation easement procurement for relocation, contribution for maintenance, and other related costs) and obtain approval and full governmental clearance of all mitigation plans. Subject to conditions contained herein, Developer shall commit to process to completion environmental and habitat mitigation and to obtain all governmental approvals. Developer shall commit to invest in such process up to \$3,000,000 ("**Developer's Cost Cap**"). Subject to a written notice from OIAA that OIAA has elected to contribute up to \$1M to continue the environmental mitigation efforts ("**Mitigation Continuation Funding Notice**"), Developer agrees to invest up to another \$1,000,000 ("**Maximum Additional Contribution**") (on a pari passu basis where each dollar spent is 50 cents from Developer and 50 cents from OIAA) in excess of the Developer's Cost Cap to obtain all required approvals and governmental clearances for all mitigation plans. In the event (i) Developer and OIAA have each contributed up to the Maximum Additional Contribution and (ii) a period of five (5) years has elapsed after the Effective Date of this DEA, subject to OIAA and Developer's full funding up to the Maximum Additional Contribution (as defined in Developer's budget), Developer shall have no further monetary obligation to pursue clearance of environmental mitigation plans or any entitlements. If Developer has contributed up to the Maximum Additional Contribution and less than five (5) years has elapsed from the Effective Date

of the DEA, and should OIAA fully fund in cash, on a monthly basis, all costs to process to completion and clearance of environmental mitigation, then Developer shall continue efforts (at OIAA's sole cost) to obtain all approvals for the full five (5) year period.

(c) Upon receipt of full clearance and approval from all governmental agencies (including those identified in Section 4.1(f)(1) and (2)) for the Project, and subject to Section 2.7(b) of this Agreement above, Developer shall, at its sole cost and expense, use commercially reasonable efforts to prepare and process for approval with the City of Ontario, drawings for construction of industrial buildings of not less than 2,000,000 square feet.

(d) Developer shall provide OIAA with quarterly reports of the status of the items in (a), (b) and (c) above.

(e) Should Developer be challenged, sued or a claim be filed in connection with the CEQA process or environmental clearance process, Developer shall use good faith efforts to defend and settle such claim and OIAA will reasonably support Developer's efforts to resolve such legal or administrative challenges, including, affirmative support with the City of Ontario to continue the entitlement process; provided, however, any resolution that binds the Property shall require consent of OIAA, which shall not be unreasonably withheld or delayed. Developer shall use good faith efforts to resolve challenges from third parties (subject to Developer's budget) but any settlement or resolution of the challenges shall be in Developer's sole discretion. Developer may, but shall not be obligated to, pursue legal challenges to trial or other final judicial determination, and shall use good faith efforts to settle such legal challenges within the Developer's budget.

2.8 Obligations of OIAA.

(a) OIAA shall cooperate with Developer to process all CEQA approvals and obtain all governmental clearances (including California Department of Fish and Wildlife and USFW) for all habitat conditions to allow for the development of the contemplated Project; provided, however, any resolution that binds the Property shall require consent of OIAA, which shall not be unreasonably withheld or delayed.

(b) OIAA shall reasonably and in good faith assist Developer in interactions with the City of Ontario for CEQA review and approvals and assist Developer with the City in case a challenge is filed.

2.9 Closing Costs. All closing costs or expenses of escrow shall be paid as follows:

(a) Title Insurance. Developer shall pay the premium for the Title Policy and Developer shall pay the cost of all endorsements to the Title Policy required by Developer.

(b) Recording Fees. Developer shall pay the cost of recording the Memorandum and any documentation required in connection with this Agreement.

(c) Taxes. Except as set forth in Subsection (e) below, OIAA shall pay (i) the full amount of any County transfer taxes and fees (if any) imposed in connection with this

transaction and under applicable law, and (ii) the full amount of any City transfer taxes and fees imposed in connection with this transaction under applicable law.

(d) Other. Developer shall pay the full amount of the escrow fees charged by the Escrow Holder, except that if this Agreement is terminated as a result of a default of either of the parties, then the defaulting party shall pay for any reasonable title and escrow cancellation fees. Each party shall be responsible for its own attorneys' fees. Any other closing costs and expenses shall be allocated in accordance with the prevailing practice for ground leasing of real property in San Bernardino, California.

2.10 Prorations. All prorations and adjustments for the Property shall be made as of midnight of the day prior to Closing (the "**Adjustment Date**"). All prorations and adjustments shall be in cash as a cash credit or debit as follows:

(a) Taxes. General and special real estate taxes and assessments for all fiscal years prior to the Closing shall be paid by OIAA (if any), including, without limitation, all supplemental taxes. General and special real estate taxes and assessments payable for the current year, including, without limitation, all supplemental taxes, possessory taxes, other than supplemental taxes attributable to the ground lease of the Property to the Developer, shall be prorated between the OIAA on the one hand and Developer on the other hand, as of the Adjustment Date, whereby OIAA shall be responsible for all such taxes attributable to the period up to the Closing and Developer shall be responsible for all such taxes attributable to the period from and after the Closing. As to supplemental taxes attributable solely to the ground lease of the Property to the Developer, such applicable taxes or possessory taxes shall be the sole responsibility of the Developer. The proration of taxes shall be based on the latest data available and the parties agree to re-prorate if the tax bills for the current fiscal period are not available. Any property tax refund received by either party before or after the Closing shall be retained and/or paid by such party as follows no later than ten (10 business days following receipt: (i) to OIAA, if relating entirely to a period ending prior to the Closing; (ii) prorated as of the Closing between OIAA and Developer if relating to a period extending both before and after the Closing, and (iii) to Developer, if relating entirely to a period on or after the Closing.

(b) Insurance. Insurance policies maintained by OIAA shall not be assigned to Developer and it shall be Developer's responsibility to obtain Developer's own insurance.

(c) Post-Closing Reconciliation. If any of the aforesaid prorations cannot be calculated accurately on the Closing, then they shall be calculated as soon after the Closing as reasonably feasible. Any amounts due and owing shall be paid by each party in cash outside of Escrow.

ARTICLE 3 COVENANTS OF OIAA AND DEVELOPER

3.1 OIAA's Preservation of the Property. Prior to the Closing, OIAA will (a) secure and maintain the Property in substantially the same physical condition existing on the Effective Date; (b) comply with all ordinances and laws pertaining to the Property; (c) not grant or consent to any temporary or permanent rights or interests in the Property of any nature; and (d) give

immediate notice to Developer in the event any OIAA receives notice or obtains knowledge of (i) the violation of any law, ordinance or regulation relating to the Property, (ii) notice of cancellation or default pursuant to any policy of insurance relating to the Property, (iii) the taking or threatened taking of the Property or any portion thereof by eminent domain, (iv) any casualty relating to the Property, or (v) the filing or threat to file an action, claim or proceeding in any court or administrative agency against OIAA which may affect the Property to which OIAA receives actual notice of same; (e) operate the Property in a manner consistent with current practice, and perform all of OIAA's obligations to maintain the Property; and (f) keep in existence all fire, extended coverage, business interruption, rent loss, or similar insurance policies, and all public liability insurance policies, that are in existence as of the Effective Date with respect to the Property. OIAA will not enter into any new contracts or any amendments or modifications to the existing contracts, which new contracts that relate to the Property or modifications will survive Closing or otherwise affect the use, operation or enjoyment of the Property after Closing (collectively, "**New Contracts**") without Developer's prior written consent, which consent may be withheld in Developer's sole discretion.

3.2 Access. OIAA will, prior to the Closing, permit Developer and its agents and consultants the following access and provide Developer the following information:

(a) Access to Information and Property. Subject to Developer timely providing evidence of reasonable insurance coverages to be carried by vendors that access the Property to OIAA for the access and inspection activities discussed below, OIAA hereby permits Developer and its agents and consultants, access during business hours but after not less than 24 hour advance notice to OIAA (which for purposes hereof may include telephonic or other verbal notice to OIAA) to inspect the condition of the Property, and with OIAA's approval (which approval OIAA shall not unreasonably withhold or delay), the right to conduct Property condition, geophysical feasibility and environmental tests and other invasive tests. Developer may interview and discuss the Property with, and obtain additional information from, tenants and any property manager. Such access shall be for the purpose of conducting Developer's due diligence review of the Property. Such access shall be exercised by Developer at such times as deemed reasonably necessary to Developer (subject to the notice provisions above); provided that OIAA shall have the right to have a representative present at the inspections provided that such right shall not delay Developer's due diligence investigations. Developer agrees to defend and indemnify and hold OIAA harmless from any claims and actual damage or injury to persons or property caused by Developer or its authorized representatives and contractors during their entry and investigations prior to Closing (provided that the foregoing indemnification shall not apply to the discovery of pre-existing conditions at the Property as a result of Developer's investigations); provided, however, that in no event shall Developer be liable for any consequential, punitive or special damages hereunder unless related to a personal injury or property claim from a third party. This defense and indemnity obligation shall survive the termination of this Agreement or the Closing, as applicable, for a period of one (1) year provided that OIAA must give notice of any claim it may have against Developer under such defense and indemnity within one year of such termination or the Closing, as applicable.

(b) Due Diligence Materials. OIAA has delivered to Developer true and correct copies of all the Due Diligence Materials in OIAA's possession or control (including all contracts that relate to the Property) for review and approval in Developer's sole and absolute discretion.

OIAA agrees to provide Developer with copies of or access to any items in addition to those referred to above which Developer may reasonably request in connection with its review of the Property to the extent such additional items are in OIAA's possession or control. OIAA agrees to promptly provide Developer with updates of the Due Diligence Materials and any and all new documents or other items affecting or regarding the Property that it obtains prior to the termination of this Agreement or the Closing or as reasonably requested by Developer.

3.3 Property Disclosure Report. Developer and OIAA acknowledge that OIAA may be required, upon written request by Developer, to disclose if the property lies within the following natural hazard areas or zones: (i) a special flood hazard area designated by the Federal Emergency Management Agency (California Civil Code Section 1103(c)(1)); (ii) an area of potential flooding (California Government Code Section 8589.4); (iii) a very high fire hazard severity zone (California Government Code Section 51178 et seq.); (iv) a wild land area that may contain substantial forest fire risks and hazards (Public Resources Code Section 4135; (v) earthquake fault zone (Public Resources Code Section 2622); or (vi) a seismic hazard zone (Public Resources Code Section 2696) (all of the preceding are sometimes herein collectively called the "**Natural Hazard Matters**"). OIAA shall engage a qualified party (the "**Natural Hazard Expert**"), to examine the maps and other information specifically made available to the public by government agencies for the purposes of enabling OIAA to fulfill its disclosure obligations, if and to the extent such obligations exist, with respect to the natural hazards referred to in California Civil Code Section 1103 et seq. and to report the result of its examination to Developer and OIAA in writing within fifteen (15) days after the opening of Escrow. The written report prepared by the Natural Hazard Expert regarding the results of its full examination will fully and completely discharge OIAA from its disclosure obligations referred to herein, if and to the extent any such obligations exist, and, for the purpose of this Agreement, the provisions of Civil Code section 1103.4 regarding non-liability of OIAA for errors or omissions not within its personal knowledge shall be deemed to apply and the Natural Hazard Expert shall be deemed to be an expert, dealing with matters within the scope of its expertise with respect to the examination and written report regarding the natural hazards referred to above. Developer agrees to provide OIAA with a written acknowledgment of its receipt of the Natural Hazard Disclosure Statement prior to the end of the Contingency Period. The cost of such report shall be OIAA's obligation.

3.4 Title Covenants. OIAA shall not grant, convey, transfer or assign any right, title or interest in all or any of the Property during the term of this Agreement, or consent to the imposition of any lien or encumbrance on the Property or grant any right of entry or possession which extends beyond the Closing.

3.5 Entitlement Cooperation. OIAA covenants to cooperate with Developer in Developer's efforts to pursue entitlements and seek the Governmental Approvals and comply with CEQA, OIAA shall encourage and request, if needed, the City to execute applications and other documents necessary for Developer to pursue the Governmental Approvals.

ARTICLE 4

CONDITIONS PRECEDENT TO CLOSING

4.1 Developer's Conditions. Anything in this Agreement to the contrary notwithstanding, Developer's obligation to lease the Property and to perform other covenants and

obligations prior to Closing shall be subject to and contingent upon the satisfaction or written waiver by Developer of the following conditions precedent which are material and for the sole benefit of Developer:

(a) Approval of the Property. As provided in Section 3.2(a), Developer may conduct and complete such analyses, evaluations, tests, and investigations of the Property as Developer may determine in its sole discretion. If, in the sole discretion and at the sole election of Developer, any of Developer's evaluations, tests, inspections, or investigations are unsatisfactory to Developer, in any manner or for any reason (or no reason at all) in Developer's sole discretion, including without limitation for reasons relating to Developer's financial analysis of the Property for Developer's intended use or any purpose, restrictions on use of the Property, matters relating to zoning, Ontario Airport Compatibility Plan, government approvals, appraised value, or other matters impacting the condition or value of the Property, Developer may in its sole and absolute discretion terminate this Agreement by the end of the Contingency Period. By the end of the Contingency Period, Developer shall determine if Developer is satisfied, in its sole and absolute discretion, with the condition of the Property and the Due Diligence Materials and such other matters deemed appropriate by Developer. Developer shall provide written notice to OIAA of its satisfaction or waiver of this condition prior to expiration of the Contingency Period ("**Approval Notice**"). If Developer provides an Approval Notice, the Approval Notice will also list any Contracts that Developer desires to assume and continue and if no list is provided, OIAA shall terminate all Contracts as of the Closing. The failure of Developer to deliver an Approval Notice prior to the expiration of the Contingency Period will be deemed an election by Developer to disapprove the condition of the Property, in which event this Agreement will terminate, the Deposit will be delivered to Developer by Escrow Holder, and the parties will have no further obligations hereunder (except for obligations that are expressly stated to survive termination of this Agreement).

(b) Title Policy. Title Company shall be irrevocably committed to issue to Developer at Closing the Title Policy, in the form of the Pro Forma Title Policy approved by Developer and the Title Company by the end of the Contingency Period.

(c) No Changes. As of the Closing, there shall have occurred no litigation or administrative agency or other governmental proceeding of any kind whatsoever, pending or threatened, which would materially and adversely affect the value of the Property, and there shall have occurred no material adverse change in the physical or environmental condition of the Property. Developer will have the right to inspect the Property within three (3) days prior to Closing to verify that the condition of the Property is as required under this Agreement.

(d) Delivery of Documents; Representations and Warranties and Full Performance.

(1) All representations and warranties of OIAA shall be true, accurate and complete in all material respects as of the Closing, as if remade at such time, and all covenants and agreements of OIAA to be complied with or performed prior to or at Closing shall have been complied with and/or performed.

(2) For the benefit of Developer, the Closing shall be conditioned on OIAA's delivery of all items required under Section 2.3(c) above.

(e) OIAA's Termination of Contracts Not Assumed by OIAA. OIAA will be responsible for terminating, at OIAA's cost (if any), all of the Contracts that Developer does not elect to assume, at or prior to Closing.

(f) Lease Trigger Conditions. All of the following shall be satisfied, as a condition to Closing, for Developer's benefit:

(1) Receipt by Developer of (A) full CEQA approval from the City (including EIR addendum and specific plan amendment), and (B) Site Plan approval by the City of Ontario;

(2) Habitat studies (and approved plans and protocols for full mitigation) for all species on the Property and full clearance of all mitigation and plans by all governmental agencies including the California Department of Fish and Wildlife ("CDFW") and United States Fish & Wildlife;

(3) Receipt by Developer of full written approval by the City of Ontario of building permits for the Initial Improvements (as defined in Ground Lease) of approximately 1.6 million square feet with the only condition remaining to issuance being the payment of the fee for such permits "**Building Permit Ready**"; and

(4) Receipt by Developer of all Governmental Approvals (including, without limitation CEQA and Site Plan) for development of the Project and expiration of all applicable appeal and legal challenge periods for all approvals, with no legal or administrative challenges filed and if legal or administrative challenges are filed all must be resolved to Developer's satisfaction, subject to Section 2.7(b) of this Agreement above.

(g) The approvals and clearances described in Section 4.1(a)-(e) and 4.1(f) (1), (2), (3) and (4) above (with no lawsuits or challenges filed) are referred to as "**Conditions to Lease**".

(h) Thirty (30) days after the Conditions to Lease are satisfied ("**Lease Trigger**"), OIAA and Developer shall proceed to closing and execute and deliver the Ground Lease and Memorandum to Escrow Holder for Closing.

4.2 Failure of Satisfaction of Conditions. If any one or more of the matters referred to in each of the subsections (a) through (h) of Section 4.1 above has not been satisfied for reasons other than a default by OIAA hereunder or waived in writing by Developer on or before five (5) years after the Effective Date, then such condition precedent shall be deemed unsatisfied, OIAA shall retain the Deposit and this Agreement shall be thereby terminated, and no party shall have any further liability or obligation hereunder, except for those obligations that expressly survive termination, unless the failure of such condition precedent also constitutes a default under or breach of the terms of this Agreement on the part of OIAA (in which event Developer may pursue its remedies for a default by OIAA as provided in Section 6.2 of this Agreement). If this Agreement is terminated pursuant to this Section 4.2, then Developer shall, within thirty (30) days

of such termination, assign or transfer on an “as-is” basis without any representation or warranty of any kind, all of its right, title, interest and non-confidential documentation to OIAA regarding the Government Approvals referenced in Recital C and Section 4.1(f) of this Agreement above, as well as transfer or assign all of its right, title, and interest in any litigation or challenge relating to any Government Approvals referenced in Recital C and Section 4.1(f) of this Agreement above to OIAA provided Developer is fully released, indemnified and protected from any further liability related to such litigation or challenge.

4.3 Conditions to OIAA's Obligations. For the benefit of OIAA, the close of escrow shall be conditioned upon Developer's delivery of items required by Developer under Section 2.3(d) above.

4.4 Post Approval Notice. After Developer has delivered the Approval Notice, Developer may, with OIAA's consent (which shall not be unreasonably withheld) (a) place on the Property marketing signs and/or (b) construct a temporary boundary fence, at Developer's expense, which Developer shall remove should Closing not occur as set forth herein.

4.5 Ground Lease Rent Commencement. The Closing shall occur and the Ground Lease will be executed 30 days after the satisfaction of the Conditions to Lease and the Rent under the Ground Lease will commence 18 months after the Effective Date of the Ground Lease.

ARTICLE 5 REPRESENTATIONS & WARRANTIES

5.1 OIAA's Warranties. OIAA hereby represents and warrants to Developer as follows (each of which representations and warranties is true and correct on the Effective Date and will be true and correct on the Closing, and each of which shall survive the Closing for a period of one (1) year):

(a) Authority. With respect to OIAA and its businesses:

(1) Approvals. OIAA is duly authorized to execute and deliver and perform this Agreement and all documents and instruments and the transaction contemplated hereby or incidental hereto without any other approval or consent from any other party; and this Agreement and the other documents required of OIAA hereunder shall be binding on and enforceable against OIAA.

(2) No Bankruptcy. OIAA hereby represents that no petition in bankruptcy (voluntary or otherwise), attachment, execution proceeding, assignment for the benefit of creditors, or petition seeking reorganization or insolvency, arrangement or other action or proceeding under federal or state bankruptcy law is pending against or contemplated (or, to OIAA's knowledge, threatened) by or against OIAA.

(3) FIRPTA. OIAA is not a foreign person or entity under section 1445 of the Internal Revenue Code, nor is any withholding required under California law in connection with the sale or ground lease of the Property.

(4) ERISA. OIAA is not a "disqualified person" or a "party in interest" under ERISA with respect to Developer.

(b) Due Diligence Materials. The copies of the Due Diligence Materials delivered to Developer are true, accurate and complete copies of all documents comprising the Due Diligence Materials. To OIAA's actual knowledge, the Property has no material physical defects, and OIAA has delivered to Developer all information in OIAA's possession and control concerning the physical condition of the Property which may have a material adverse effect on the Property and/or its operation.

(c) Litigation. Except as disclosed in writing to Developer, there is no litigation, claim, audit, action, or proceeding pending or, to the actual knowledge of OIAA, threatened before or by any court, public board or body or governmental or administrative agency or instrumentality by OIAA or by any other person or entity in any manner affecting the Property, including any proceeding relating to any habitat located on the Property.

(d) Condemnation. There is no pending, or to the actual knowledge of OIAA, threatened, condemnation, environmental, zoning or other land-use regulation proceeding against the Property or any portion thereof, nor does OIAA or its agents have any knowledge or notice of any public request, plans or proposals for changes in road grade, access or other municipal improvements that may detrimentally affect the use, operation or value of the Property.

(e) Violations. OIAA has not received written notice of any alleged violation of any fire, zoning, building, or health law, regulation or ruling, whether federal, state or local, which affects the Property, or that the Property is not in compliance with applicable local, state and federal laws. OIAA knows of no default by OIAA or by any other party under any easement, restrictive covenant or other Appurtenance affecting the Property.

(f) Environmental. (1) To OIAA's actual knowledge OIAA has not disposed or released or authorized any third party to dispose or release any hazardous or toxic materials or substances at the Property in violation of any federal, state, local or administrative agency ordinance, law, rule, regulation, order or requirement (collectively, "**Environmental Laws**") relating to environmental conditions or hazardous materials, and there are no underground storage tanks at the Property; and (2) to OIAA's actual knowledge there are no hazardous materials or substances located on, under or about the Property except as otherwise identified in the Due Diligence Materials delivered by OIAA to Developer or in Developer's phase one report prepared by Cameron Cole dated September 29, 2021. For purposes hereof, hazardous material shall mean any substance, chemical, waste or other material which is listed, defined or otherwise identified as "hazardous" or "toxic" under any federal, state, local law, rule regulation, order, requirement or ordinance, including, without limitation, formaldehyde, urea, polychlorinated biphenyls, petroleum, petroleum product or by-product, crude oil, natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel or mixture thereof, radon, asbestos and any by-product of same.

(g) Not a Prohibited Person.

(1) OIAA is not a Prohibited Person. As used herein, the term "**Prohibited Person**" shall mean any of the following: (a) a person or entity that is listed in the Annex to, or is otherwise subject to the provisions of, Executive Order No. 13224 on Terrorist Financing (effective September 24, 2001) (the "**Executive Order**"); (b) a person or entity owned or controlled by, or acting for or on behalf of any person or entity that is listed in the Annex to, or is otherwise subject to the provisions of, the Executive Order; (c) a person or entity that is named as a "specially designated national" or as a "blocked person" on the most current list published by the U.S. Treasury Department's Office of Foreign Assets Control ("**OFAC**") at its official website, <http://www.treas.gov/offices/enforcement/ofac>; (d) a person or entity that is otherwise the target of any economic sanctions program currently administered by OFAC; or (e) a person or entity that is affiliated with any person or entity identified in clause (a), (b), (c) and/or (d) above.

(2) To OIAA's actual knowledge, none of its brokers or other agents (if any), acting or benefiting in any capacity in connection with this Agreement is a Prohibited Person.

(3) The leasehold interests OIAA may transfer to Developer under this Agreement are not the property of, and are not beneficially owned, directly or indirectly, by a Prohibited Person.

(4) The leasehold interests of OIAA may transfer to Developer under this Agreement are not the proceeds of specified unlawful activity as defined by 18 U.S.C. §1956(c)(7).

5.2 Notice of Changes in Representations. If prior to the Closing, OIAA becomes aware that any representation or warranty set forth in this Agreement that was true and correct on the date of this Agreement has become incorrect due to changes in conditions (not caused by a default by OIAA under this Agreement) or the discovery by OIAA of information of which OIAA was unaware on the date of this Agreement, then OIAA shall immediately notify Developer thereof and the representations and warranties set forth herein which are to be remade and reaffirmed by OIAA at the Closing shall be supplemented by such new information. If such notification occurs after expiration of the Contingency Period, and if both OIAA and Developer agree in writing that such change in condition or new information has an adverse impact on the Property, Developer may elect within five (5) business days after receipt of such notice (or, if such notice is received less than five (5) business days prior to the Closing, Developer may elect on or before the Closing) to provide written notice to OIAA of Developer's intent to terminate this Agreement, in which event, any funds deposited in escrow (and released to OIAA), together with all interest earned while held in the Escrow, shall be returned to Developer, this Agreement shall be terminated, and no party shall have any further liability or obligation hereunder except for those obligations that expressly survive a termination; provided, however, that OIAA may within five (5) days after receipt of such termination notice (or, if such termination notice is received less than five (5) days prior to the Closing) notify Developer of OIAA's intent to cure the condition causing such misrepresentation prior to Closing, in which event OIAA's cure of such condition (to Developer's reasonable satisfaction) shall be a condition precedent to Developer's obligations hereunder. If OIAA and Developer do not agree in writing that such change in condition or new information has

an adverse impact on the Property, then either party may submit such unresolved dispute to the Judicial Arbitration and Mediation Service ("JAMS") arbitration pursuant to JAMS Streamlined Arbitration Rules & Procedures ("Streamlined Arbitration"), with a concurrent copy to be sent to the other party. The prevailing party in any such Streamlined Arbitration shall be entitled to an award (through such Streamlined Arbitration) for recovery of all reasonable attorneys' fees, expenses and costs of such arbitration. The arbitration shall be binding upon OIAA and Developer. In connection with any such Streamlined Arbitration, OIAA and Developer each hereby agree to expedite the discovery, adjudication and decision process, and shall each cooperate with one another and the JAMS arbitrator to establish and agree upon an expedited timeline for the completion of the same. Any arbitrator selected by the parties shall be knowledgeable in property development and construction.

5.3 Developer Warranties. Developer hereby represents and warrants to OIAA as follows (each of which representations and warranties is true and correct on the date hereof and will be true and correct on the Closing, and each of which shall survive the Closing for a period of one (1) year):

(a) Authority. Developer has all necessary power and authority to lease, use and transfer its properties (including the Property) and to transact the business in which it is engaged, and holds all licenses and permits necessary and required therefor, and has full power and authority to enter into this Agreement, to execute and deliver the documents required of Developer herein, and to perform its obligations hereunder.

(b) Approvals. Developer is duly authorized to execute and deliver and perform this Agreement and all documents and instruments and the transaction contemplated hereby or incidental hereto without any other approval or consent from any other party including, without limitation, any partner, investor or director of Developer.

(c) AS-IS TRANSACTION. EXCEPT AS OTHERWISE EXPRESSLY SET FORTH IN THIS AGREEMENT AND THE GROUND LEASE, SUBJECT TO OIAA'S REPRESENTATIONS AND WARRANTIES MADE TO DEVELOPER UNDER SECTION 5.1, ONLY, DEVELOPER ACKNOWLEDGES, AGREES, REPRESENTS AND WARRANTS THAT DEVELOPER WILL BE LEASING THE PROPERTY BASED SOLELY ON DEVELOPER'S INDEPENDENT INVESTIGATION AND DETERMINATION OF THE VALUE AND CONDITION OF THE PROPERTY, IN THE PROPERTY'S AS-IS CONDITION. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT AND THE GROUND LEASE, DEVELOPER IS NOT RELYING ON ANY REPRESENTATION OR WARRANTY, IF ANY, OF OIAA AS TO THE VALUE OF THE PROPERTY, THE REVENUE TO BE DERIVED THEREFROM OR THE PROFITABILITY OF THE PROPERTY. DEVELOPER FURTHER AGREES, REPRESENTS AND WARRANTS THAT DEVELOPER IS AN EXPERIENCED OWNER, DEVELOPER, AND OPERATOR OF REAL PROPERTY.

ARTICLE 6 LIQUIDATED DAMAGES/OIAA DEFAULT

6.1 DEVELOPER'S LIQUIDATED DAMAGES. THE PARTIES HAVE DISCUSSED AND NEGOTIATED IN GOOD FAITH UPON THE QUESTION OF DAMAGES

TO BE SUFFERED BY OIAA IN THE EVENT DEVELOPER DEFAULTS UNDER THIS AGREEMENT AND THE CLOSING DOES NOT OCCUR AS A RESULT, AND THEY HEREBY AGREE THAT OIAA'S ACTUAL DAMAGES IN THE EVENT OF SUCH A BREACH WOULD BE IMPRACTICAL OR EXTREMELY DIFFICULT TO DETERMINE. ACCORDINGLY, THE PARTIES HERETO AGREE THAT LIQUIDATED DAMAGES IN THE AMOUNT OF THE DEPOSIT PLUS THE FUNDS REQUIRED UNDER DEVELOPER'S COST CAP THAT WERE NOT PAID TO THIRD PARTY CONSULTANTS FOR REPORTS OR SERVICES RELATED TO ENVIRONMENTAL MITIGATION THEN MADE OR FOR WHICH DEVELOPER IS OTHERWISE OBLIGATED UNDER THIS AGREEMENT, AND IN THE EVENT OF SUCH DEFAULT AND FAILURE TO CLOSE, OIAA'S SOLE AND EXCLUSIVE REMEDY AND RECOURSE (WHETHER AT LAW OR IN EQUITY) SHALL BE TO RECEIVE SUCH LIQUIDATED DAMAGES, AND DEVELOPER SHALL HAVE NO ADDITIONAL LIABILITY WHATSOEVER, ALL OTHER CLAIMS TO DAMAGES OR OTHER REMEDIES IN RESPECT OF DEVELOPER'S BREACH OF THIS AGREEMENT BEING HEREIN EXPRESSLY WAIVED BY OIAA. HOWEVER, NOTHING IN THIS SECTION SHALL PRECLUDE THE RECOVERY OF REASONABLE ATTORNEYS' FEES INCURRED BY OIAA IN ENFORCING THIS AGREEMENT TO THE EXTENT RECOVERABLE AS PROVIDED IN SECTION 7.4 OF THIS AGREEMENT, OR LIMIT THE EFFECTIVENESS OF THE INDEMNIFICATION OBLIGATIONS OF DEVELOPER UNDER SECTION 3.2(a) OF THIS AGREEMENT. AS AN ADDITIONAL REMEDY, DEVELOPER SHALL DELIVER TO OIAA ON AN AS IS BASIS, ALL NON CONFIDENTIAL ENTITLEMENT DOCUMENTATION AND STUDIES AND CONSTRUCTION AND CONSTRUCTION SPECIFICATIONS PREPARED FOR PROJECT AND ANY OTHER RIGHTS OF OIAA RELATING TO GOVERNMENT APPROVALS DISCUSSED IN SECTION 4.2 OF THIS AGREEMENT ABOVE.

INITIALS: OIAA: _____ Developer:  _____

6.2 OIAA's Default. If the Closing is not consummated because of a "Material Default" under this Agreement on the part of OIAA (a "Material Default" shall mean (i) refusal to execute the Ground Lease or failure to execute a Closing document (ii) bankruptcy of OIAA, or (iii) if a condition precedent identified in Sections 2.5-2.8, Article 3 or Article 4 cannot be fulfilled because OIAA intentionally frustrated such fulfillment by some affirmative act or failure to act, Developer may: (1) terminate this Agreement by delivery of notice of termination to OIAA, whereupon Developer's Deposit shall be immediately returned to Developer by OIAA or Escrow Holder, and neither party shall have any further rights or obligations hereunder; or (2) continue this Agreement pending Developer's action for specific performance and/or damages hereunder; provided, however, that if OIAA's breach or default is of a nature that the remedy of specific performance is not a viable remedy (e.g., if OIAA transfers an interest in the Property (including, without limitation, granting a lien) to a third party in breach of this Agreement), then Developer shall be entitled to pursue any remedy available under this Agreement or available at law or in equity.

**ARTICLE 7
GENERAL PROVISIONS**

7.1 Notice. Any notice, request, demand, consent, approval or other communication (any of which is hereinafter called "Notice") provided or permitted under this Agreement shall be

in writing, signed by the party giving such Notice, shall be given only in accordance with the provisions of this Section, shall be addressed to the parties in the manner set forth below, and shall be conclusively deemed to have been properly delivered: (a) upon receipt when hand delivered during normal business hours (provided that notices which are hand delivered shall not be effective unless the sending party obtains a signature of a person at such address that the notice has been received); (b) upon receipt when sent by facsimile to the number set forth below (provided, however, that notices given by facsimile shall not be effective unless the sending party delivers the notices also by one other method permitted under this Section); (c) upon the day of delivery if the notice has been deposited in an authorized receptacle of the United States Postal Service as first-class, registered or certified mail, postage prepaid, with a return receipt requested (provided that the sender has in its possession the return receipt to prove actual delivery); or (d) one (1) business day after the notice has been deposited with either Fed Ex or United Parcel Service to be delivered by overnight delivery (providing that the sending party receives a confirmation of actual delivery from the courier):.

OIAA: Ontario International Airport Authority
1923 E. Avion Street
Ontario, CA 91761
Attention: Atif Elkadi, Deputy Chief Executive Officer
Email: AElkadi@flyontario.com

With a copy to: Gatzke Dillon & Ballance LLP
2762 Gateway Road
Carlsbad, CA 92009
Attention: Kevin Sullivan
Email: ksullivan@gdandb.com

Developer: CanAm Ontario, LLC
c/o US RE Company, LLC
9830 Colonnade Blvd., Suite 600
San Antonio, Texas 78230-2239
Attention: Lange Allen, Director US Industrial
Email: lange.allen@usrealco.com

With a copy to: US RE Company, LLC
9830 Colonnade Blvd., Suite 600
San Antonio, Texas 78230-2239
Attention: Lange Allen, Director US Industrial
Email: lange.allen@usrealco.com

and a copy to: Allen Matkins Leck Gamble Mallory & Natsis LLP
1900 Main Street, Fifth Floor
Irvine, CA 92614
Attention: Gary S. McKitterick, Esq.
Email: gmckitterick@allenmatkins.com

To Escrow Holder: First American Title Insurance Company
777 South Figueroa Street, Suite 400
Los Angeles, CA 90017
Attention: Liz Thymius
Email: faca-ra-teamthymius@firstam.com

Any party from time to time, by notice to the other party, given as set forth above, may change its address for purpose of receipt of any such Notice. A Notice may be given by a party or by such party's attorney.

7.2 Headings. The titles and headings of the various Articles and sections hereof are intended solely for means of reference and are not intended for any purpose whatsoever to modify, explain or place any construction on any of the provisions of this Agreement.

7.3 Severability. If any of the provisions of the Agreement or the application thereof to any persons or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby, and every provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

7.4 Attorneys' Fees. If a dispute arises between the parties hereto concerning the performance, meaning or interpretation of any provision of this Agreement, then the party not prevailing in such dispute shall pay any and all costs and expenses incurred by the other party on account of such default and/or in enforcing or establishing its rights hereunder, including, without limitation, court costs and attorneys' fees and disbursements. Any such attorneys' fees and other expenses incurred by either party in enforcing a judgment in its favor under this Agreement shall be recoverable separately from and in addition to any other amount included in such judgment, and such attorneys' fees obligation is intended to be severable from the other provision of this Agreement and to survive and not be merged into any such judgment.

7.5 Integration/Exhibits/Governing Law. This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and may not be modified, amended or otherwise changed in any manner except by a writing executed by the party against whom enforcement is sought. All exhibits attached hereto are incorporated herein by reference. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

7.6 Successors and Assigns. This Agreement and all covenants, terms and provisions contained herein shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors and permitted assigns, subject to the provisions set forth in Section 7.7 below.

7.7 Assignment/No Third-Party Beneficiaries. Developer may assign all or any portion of this Agreement or its rights hereunder, or delegate all or any portion of its duties or obligations to an affiliate without OIAA's written consent, provided that (a) Developer gives OIAA notice of the assignment or delegation; and (b) that such assignment or delegation does not relieve Developer of any of its obligations hereunder until Developer's assignee has performed Developer's obligations hereunder and the Closing has occurred. For this purpose, an affiliate of

Developer includes any person or entity for which Developer is a general partner, manager, managing member or asset manager or any other person or entity controlled by or under common control with (whether by the exercise of voting or contract rights) Developer. OIAA shall not assign this Agreement or any rights hereunder or delegate any of its obligations. Except as specifically set forth or referred to herein, nothing herein expressed or implied is intended or shall be construed to confer upon or give to any person or entity, other than the parties hereto and their successors or permitted assigns, any rights or remedies under or by reason of this Agreement.

7.8 Time of the Essence. Time is of the essence of every provision herein contained.

7.9 Construction. The parties acknowledge that with respect to the transactions contemplated herein (a) each party and its counsel have reviewed and revised this Agreement and that the normal rule of construction to be effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any amendments or exhibits thereto; (b) neither party has received from the other any accounting, tax, legal or other advice, and (c) each party has relied solely upon the advice of its own accounting, tax, legal and other advisors.

7.10 Survival. All representations and warranties by the respective parties contained herein or made in writing pursuant to this Agreement are intended to and shall, as a condition to the Closing, remain true and correct as of the time of Closing, shall be deemed to be material, and shall survive the Closing for a period of one (1) year.

7.11 Counterparts. This Agreement may be executed in two or more counterparts, each of which is deemed an original, but all of which when taken together shall constitute one agreement. Any counterpart executed and delivered by facsimile, email or other electronic means will have the same force and effect as an original signed counterpart.

7.12 Day and Calculation of Time Periods. The reference to "**day**" shall mean a calendar day, unless modified to be a business day. Unless otherwise specified, in computing any period of time described herein, the day of the act or event after which the designated period of time begins to run is not to be included and the last day of the period so computed is to be included, unless such last day is a Saturday, Sunday or legal holiday for national banks in the location where the Property is located, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday, or legal holiday. The last day of any period of time described herein shall be deemed to end at 5:00 p.m. in the jurisdiction in which the Property is located. As used herein, the term "**business day**" means any day other than a Saturday, Sunday or legal holiday for national banks in the location where the Property is located. [In California, the term "business day" includes Saturday unless it is expressly excluded in the contract.]

7.13 Memorandum of Agreement. Concurrently with the execution of this Agreement, the parties shall sign, acknowledge and deliver to the Title Company, to hold in escrow, a Memorandum of Agreement ("**Memorandum of Agreement**") in the form of Exhibit "F" attached hereto (which includes, without limitation, that in the event of any inconsistencies between this Agreement and the Memorandum of Agreement, this Agreement shall control). OIAA and Developer hereby irrevocably and unconditionally authorize the Title Company, without the necessity of any further instruction or authorization, as a condition precedent to the release of the

Deposit to OIAA, to record the Memorandum of Agreement upon the expiration of the Contingency Period (provided that Developer has not terminated or been deemed to have terminated this Agreement). Developer shall pay the cost of recording the Memorandum.

7.14 Brokers. OIAA and Developer each represents that there are no brokers or other intermediaries entitled to receive any compensation in connection with the ground lease of the Property other than CBRE acting as OIAA's broker. ("**OIAA's Broker**"). Developer has no broker. OIAA and Developer shall indemnify and save and hold each other harmless from and against all claims that any compensation is due in connection with this transaction based on any agreement or representation made by the Party giving the indemnity. The provisions of this Section 7.14 shall survive the Closing or any termination of this Agreement.

[Signatures appear on following pages.]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date set forth above.

OIAA:

ONTARIO INTERNATIONAL AIRPORT
AUTHORITY, a joint powers authority

By: _____
Name: _____
Title: _____

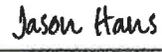
By: _____
Name: _____
Title: _____

DEVELOPER:

CanAm Ontario, LLC,
a Delaware limited liability company

DocuSigned by:

By: _____
Name: Lange Aften
Title: Managing Director

DocuSigned by:

By: _____
Name: Jason Hans
Title: Managing Director

CONSENT OF ESCROW HOLDER

The undersigned Escrow Holder hereby agrees to (i) accept the foregoing Agreement, (ii) be Escrow Holder under said Agreement, (iii) to make all filings required under Section 6045 of the Internal Revenue Code of 1986, as amended, and (iv) be bound by said Agreement in the performance of its duties as Escrow Holder; provided, however, the undersigned shall have no obligation, liability or responsibility under (a) this Consent or otherwise, unless and until said Agreement, fully signed by the parties, has been delivered to the undersigned, or (b) any amendment to said Agreement unless and until the same is delivered to the undersigned.

Dated: _____, 2021

FIRST AMERICAN TITLE INSURANCE
COMPANY

By: _____
Name: _____
Its: _____

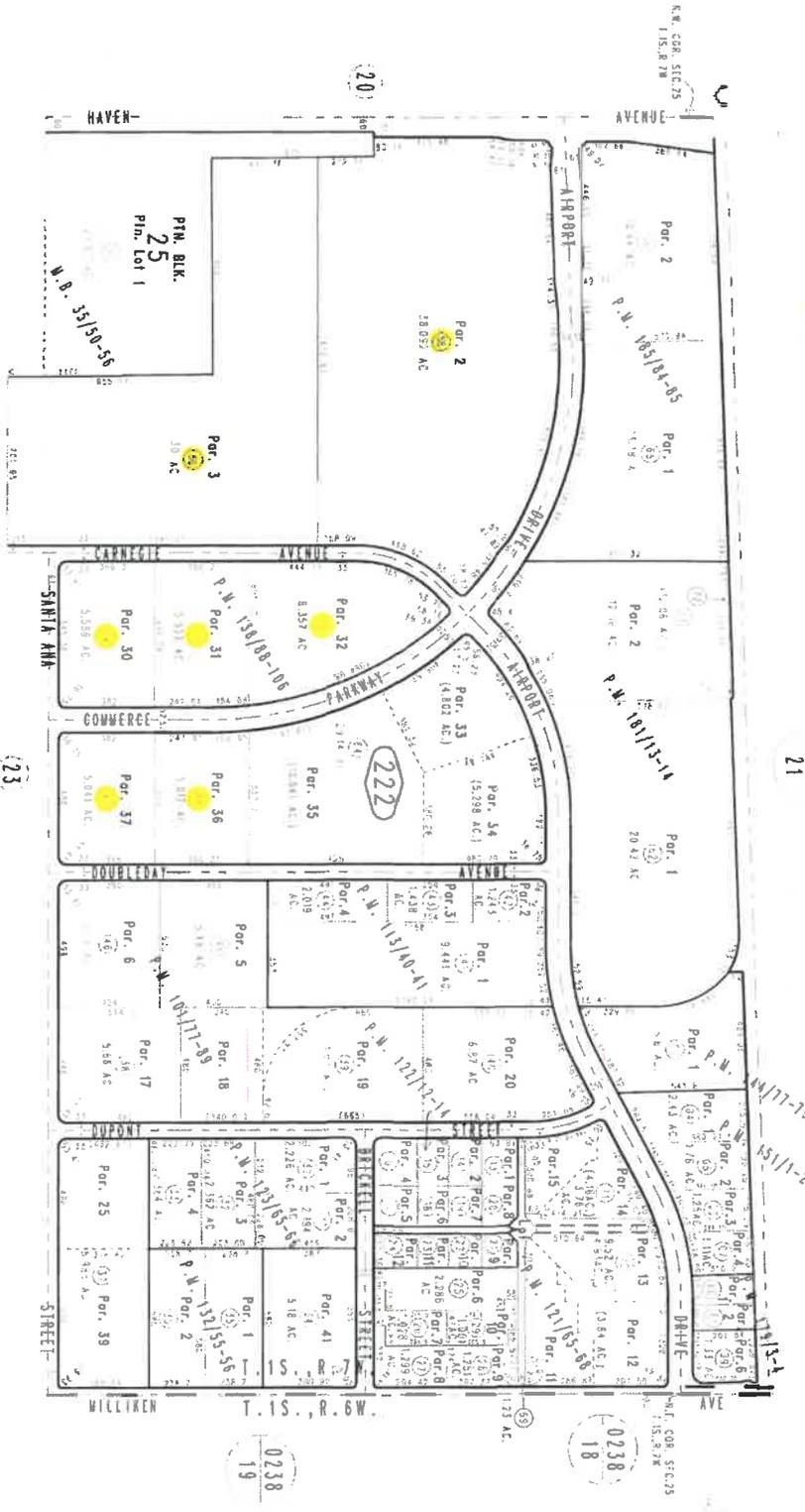
THIS MAP IS FOR INFORMATION ONLY AND DOES NOT CONSTITUTE A WARRANTY OF ANY KIND.

Pln. Tract No. 2244, M.B. 35/50-56

0210
21

City of Ontario
Tax Rate Area
4008

0211 - 22



October 2004

Parcel No. 13854 P.W. 13854-31
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 Parcel No. 14000 P.W. 14000-31

Assessor's Map
 Book 0211 Page 22
 San Bernardino County

REVISED
 01/13/12 L.R.-MC
 01/24/15 NO

EXHIBIT A-2

LEGAL DESCRIPTION FOR PROPERTY

PARCEL A:

PARCELS 2, 3, 4, 27 THROUGH 32, 36 THROUGH 44 OF PARCEL MAP NO. 10112, IN THE CITY OF ONTARIO, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 138, PAGES 88 THROUGH 106, INCLUSIVE, OF PARCEL MAPS, RECORDS OF SAID COUNTY, AND AMENDED BY CERTIFICATE OF CORRECTION RECORDED MARCH 06, 1991, AS INSTRUMENT NO. 91-077511, OF OFFICIAL RECORDS.

EXCEPT THEREFROM ALL OIL, PETROLEUM, HYDROCARBONS, GAS, BREA, ASPHALTUM AND ALL KINDRED SUBSTANCES AND OTHER MINERALS LYING BELOW A DEPTH OF 500 FEET FROM THE SURFACE, BUT WITHOUT THE RIGHT OF SURFACE ENTRY, AS CONVEYED TO ACTION TRADING COMPANY, A NEVADA CORPORATION, BY DEED RECORDED JULY 30, 1968, IN BOOK 7068, PAGE 672, OF OFFICIAL RECORDS OF SAID COUNTY.

PARCEL B:

AN EASEMENT AS CREATED IN THAT CERTAIN DOCUMENT ENTITLED "ACCESS EASEMENT" EXECUTED BY THE CITY OF ONTARIO, IN FAVOR OF VINA VISTA VENTURE, A CO-PARTNERSHIP AND RECORDED APRIL 24, 1958, IN BOOK 4491, PAGE 161, OF OFFICIAL RECORDS.

PARCEL B1:

EASEMENTS AS CREATED IN THAT CERTAIN DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS RECORDED SEPTEMBER 23, 1983 AS INSTRUMENT NO. 83-223429, OF OFFICIAL RECORDS AND FURTHER EVIDENCED BY THAT CERTAIN "EASEMENT DEED" RECORDED OCTOBER 02, 1990 AS INSTRUMENT NOS. 90-393436 AND 90-393437, BOTH OF OFFICIAL RECORDS.

PARCEL C:

PARCELS 2, 3 AND 4 OF PARCEL MAP NO. 14732, IN THE CITY OF ONTARIO, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 180, PAGES 50 AND 51, INCLUSIVE OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

EXCEPT THEREFROM ALL OIL, PETROLEUM, HYDROCARBONS, GAS, BREA, ASPHALTUM AND ALL KINDRED SUBSTANCES AND OTHER MINERALS LYING BELOW A DEPTH OF 500 FEET FROM THE SURFACE, BUT WITHOUT THE RIGHT OF SURFACE ENTRY, AS CONVEYED TO ACTION TRADING COMPANY, A NEVADA CORPORATION, BY DEED RECORDED JULY 30, 1968, IN BOOK 7068, PAGE 672, OF OFFICIAL RECORDS OF SAID COUNTY.

PARCEL D:

PARCELS 2, 3 AND 4 OF PARCEL MAP NO. 13141, ON FILE IN BOOK 151, PAGES 66 THROUGH 69, OF PARCEL MAPS, RECORDS OF SAN BERNARDINO COUNTY, CALIFORNIA, AS AMENDED BY CERTIFICATE OF CORRECTION RECORDED MARCH 06, 1991 AS INSTRUMENT NO. 91-077510, OF OFFICIAL RECORDS.

FOR CONVEYANCING PURPOSES ONLY: APN 0211-232-44-0-000, 0211-232-45-0-000, 0211-232-46-0-000, 0211-222-47-0-000, 0211-222-48-0-000, 0211-222-52-0-000 AND 0211-222-53-0-000, 0211-222-54-0-000, 0211-222-55-0-000, 0211-232-11-0-000, 0211-232-12-0-000, 0211-232-13-0-000, 0211-232-14, 0211-232-15-0-000, 0211-232-16-0-000, 0211-232-17-0-000, 0211-232-18-0-000, 0211-232-19-0-000, 0211-232-20-000, 0211-232-04-0-000, 0211-232-05-0-000, 0211-232-06-0-000, 0211-232-07-0-000, 0211-222-56-0-000

EXHIBIT B
GROUND LEASE

GROUND LEASE

THIS GROUND LEASE ("Lease"), is made as of _____, 20__ (the "Effective Date"), by and between ONTARIO INTERNATIONAL AIRPORT AUTHORITY, a joint powers authority ("Landlord") and CanAm Ontario, LLC, a Delaware limited liability company ("Tenant").

A. Landlord is the owner of certain real property consisting of approximately 197.848 net acres located in the City of Ontario ("City"), County of San Bernardino ("County"), State of California ("State") (APN Nos. _____), and depicted on Exhibit "A-1" and legally described in Exhibit "A-2" attached hereto (together with any easements appurtenant thereto, the "Premises"). The Premises are located in close proximity to the Ontario International Airport (the "Airport"), which Landlord operates and maintains for the benefit of the Southern California economy and the residents of the Airport's four-county area.

B. Tenant intends to develop an industrial project (the "Project") on the Premises.

C. The initial improvements to be constructed by Tenant on the Premises, together with all future modifications or additions to same, are referred to herein as the "Improvements."

D. Tenant desires to ground lease the Premises for the purpose of constructing the initial Improvements and operating the Project therein, all in accordance with the terms and conditions set forth in this Lease.

E. Landlord and Tenant have previously executed that certain Development and Entitlement Agreement dated as of December __, 2021. ("DEA")

NOW THEREFORE IT IS AGREED:

1. Agreement to Lease. For and in consideration of the covenants and agreements hereinafter set forth to be kept and performed by Landlord and Tenant, Landlord hereby leases to Tenant and Tenant does hereby take, accept and hire from Landlord, the Premises for the period, at the rental, and subject to and upon the terms and conditions herein set forth.

2. Premises.

(a) Landlord will deliver the Premises, and Tenant is accepting the Premises, subject to the following matters to the extent they affect the Premises:

(i) All present and future building restrictions, regulations, zoning laws, ordinances, resolutions, regulations and orders of the City, the County, the State and the federal government, and all agencies, boards, bureaus, commissions and bodies of any of the foregoing. Landlord has received that certain letter dated as of November 23, 2020, from the U.S. Department of Transportation, Federal Aviation Administration, regarding Section 163 Applicability with respect to the Premises (the "FAA Section 163 Determination"). Landlord and Tenant are relying on the FAA Section 163 Determination in entering into this Lease and developing the Premises as contemplated in this Lease.

(ii) Except as expressly set forth in this Lease, the existing “as-is” condition of the Premises on the Delivery Date.

(iii) All nondelinquent taxes, duties, assessments, special assessments, water charges and sewer rents, and any other impositions, accrued or unaccrued, fixed or not fixed, each as of the Commencement Date.

(iv) The Approved Title Exceptions.

3. Possession; Term; Commencement Date.

(a) Delivery Date. Subject to Force Majeure Delays (as defined in Section 29(o) below), Landlord will deliver exclusive possession of the Premises to Tenant within one (1) business day following the mutual execution and delivery of this Lease. The date on which Landlord delivers such exclusive possession of the Premises to Tenant is referred to herein as the “Delivery Date.” If a delay in the Delivery Date is caused by Tenant, then the Term and Tenant’s obligation to pay Ground Rent will commence as of the date the Commencement Date would have occurred but for Tenant’s delay, even though Tenant failed to gain possession on or before the actual Delivery Date. Notwithstanding the foregoing, Landlord will not be obligated to deliver possession of the Premises to Tenant (but the Delivery Date will be deemed to have occurred if Landlord can otherwise deliver the Premises to Tenant) until Landlord has received from Tenant copies of policies of insurance or certificates thereof as required under Section 11 below.

(b) Term. The term of this Lease (the “Term”) shall be for a period of fifty five (55) years, commencing on the Commencement Date and expiring on the fifty-fifth (55th) anniversary of the Commencement Date (the “Expiration Date”). The period between the mutual execution and delivery of this Lease and the Commencement Date shall constitute the “Pre-Term Period.” As a clarification, Landlord and Tenant agree that this Lease shall be fully binding and enforceable (subject to the terms and conditions contained herein) as of the mutual execution and delivery of same, notwithstanding that the Delivery Date, the Commencement Date and the commencement of the Term will occur after such execution and delivery of the Lease.

(c) Commencement Date. Tenant’s obligation to pay Ground Rent (as defined below) hereunder with respect to the entire Premises shall commence upon the date that is eighteen (18) months after the Delivery Date (the “Commencement Date”). Within ten (10) days of request by either party, the parties agree to execute and deliver to each other a written confirmation of the Delivery Date, the Commencement Date and the Expiration Date. As used herein, the first “Lease Year” shall mean the period from the Commencement Date to the last day of the month in which the first (1st) anniversary of the Commencement Date occurs, and each successive “Lease Year” shall mean each successive twelve (12) month period.

(d) Adjustment of Term. The parties acknowledge California Government Code Sections 37380(a) and 37395, which limit the term of leases of property owned by certain governmental agencies to fifty five (55) years. Landlord represents and warrants to Tenant that Landlord has determined by resolution that the Premises is not required for other agency

purposes for purposes of Government Code Section 37395. The parties believe and intend that said 55-year limitation is calculated from the Commencement Date and the Term of the Lease, as calculated pursuant to Section 3(b) above, will comply with said 55-year limitation. Further, the parties believe and intend that the Pre-Term Period shall not be included in the calculation of said 55-year limitation. Notwithstanding the foregoing, in the event any court or other governmental agency with jurisdiction over the matter determines, prior to the Commencement Date that the Term as calculated pursuant to Section 3(b) above violates the 55-year limitation, the Term of the Lease shall automatically be shortened to the extent necessary to comply with the 55-year limitation.

4. Rent.

(a) Ground Rent. Beginning on the Commencement Date, Tenant agrees to pay to Landlord as ground rent the sums set forth on Schedule 4(a) attached hereto ("Ground Rent") for the use and occupancy of the Premises during the Term. **[Drafting Note: The final net acres will be calculated by Thienes Engineering prior to execution (such net acres may change because of the conditions of approval) and such final calculation shall be verified by Landlord and used to adjust the rent set forth on Schedule 4(a).]** The parties will timely coordinate and cooperate in good faith to determine the final net acreage of the Premises, and the related Ground Rent, before execution of this Lease.

(b) Payment Terms. Each monthly installment of Ground Rent shall be payable in advance on the first (1st) day of each month throughout the Term of this Lease. Except as otherwise provided herein, all rents payable to Landlord under this Lease shall be paid without notice, demand, offset or deduction for rent (but Tenant shall receive an invoice for costs, if any) in lawful money of the United States of America at Landlord's address for notices hereunder, or to such other person or at such other place as Landlord may from time to time designate by notice in writing to Tenant. Upon Landlord's request and delivery of automated clearing house ("ACH") instructions, Tenant will pay Ground Rent via ACH. Time is of the essence in payment of all rents and/or other charges. Rent for any partial month shall be prorated.

(c) Late Charge and Default Interest. Except as otherwise set forth in this Section 4, if Tenant shall fail to pay any Ground Rent and/or other charge so that Landlord fails to receive the same within five (5) days after the same is due and payable, after written notice, such unpaid amounts shall, at Landlord's option, bear interest at the lesser of (i) the prime rate as published from time to time by the Wall Street Journal as of the date such payment is delinquent, plus four percent (4%) or (ii) the maximum rate allowed by law (the "Interest Rate"), from the date due to the date of payment. In addition to such interest, Tenant shall also, at Landlord's option, pay a late charge equal to five percent (5%) of any installment of Ground Rent and/or other charges which has not been received by Landlord within five (5) days after the same is due and payable; provided, however, that not more often than one time per calendar year, said default interest and late charge shall not apply if Tenant pays the sum that is past due within five (5) days after receipt of Landlord's notice that same is past due.

(d) Absolute Net Agreement: Additional Rent. All charges payable under this Lease, including but not limited to Ground Rent, taxes and insurance, are deemed to be rent.

It is the intent of the parties that Ground Rent provided in this Lease shall be an absolutely net payment to Landlord. Accordingly, in addition to Ground Rent described in Section 4(a) above, Tenant covenants and agrees to pay as "Additional Rent" all property taxes, insurance costs, operating expenses, utility charges, maintenance and repair expenses and any other cost or expense associated with Tenant's operations on or occupation of the Premises, of whatever description, and whether imposed in the first instance on Landlord or Tenant to the extent that the failure to pay such expenses will result in a liability to Landlord or a lien on the fee title to the Premises. Except as otherwise provided herein, to the extent that Landlord is billed for and obligated to pay any Additional Rent, same shall become due within the later of the next monthly installment of Ground Rent or thirty (30) days from Tenant's receipt of the invoice therefor, and shall be paid to Landlord without deduction, set-off or abatement whatsoever, except as otherwise provided herein. Otherwise, Tenant shall pay all such Additional Rent directly to the providers of such services or operations. Tenant, however, shall not be required to pay any mortgage indebtedness or any interest on any mortgage that at any time may encumber the interest of Landlord in the Premises.

5. Quiet Enjoyment. Landlord covenants that upon payment by Tenant of the rent herein reserved and upon performance and observance by Tenant of all of the agreements, covenants and conditions herein contained on the part of Tenant to be performed and observed, Tenant shall peaceably hold and quietly enjoy the Premises during the entire Term without hindrance, molestation or interruption by Landlord or by anyone lawfully or equitably claiming by, through or under Landlord.

6. Use.

(a) Tenant's Permitted Use. Tenant shall be permitted to use the Premises for constructing the Initial Improvements and operating the Project, which shall include light industrial and ancillary office and other lawful uses consistent with current zoning for the Premises, and for no other purpose without the prior written consent of Landlord, not to be unreasonably withheld. Tenant and its respective tenants or buyers will be permitted all uses as described in the Ontario Municipal Zoning Code, the Ontario International Airport Land Use Compatibility Plan as adopted by the City, and the California Commerce Center Specific Plan and its related amendments. In addition, Landlord will grant Tenant flexibility with further permitted use approvals for other uses not specifically permitted, with both reasonable consent and the City of Ontario's approval. Tenant shall not use and shall not permit or suffer the Premises or any portion of the Premises to be used in any manner that would violate the provisions of any then-current certificate of occupancy issued with respect to the Premises, or any other license, permit, or other governmental authorization that is required for the lawful use and occupancy of all or a portion of the Premises. If any license, permit or other governmental authorization for the lawful use or occupancy of, or any portion of the Premises is required, Tenant shall procure and maintain same throughout the Term of this Lease at the sole cost and expense of Tenant. Tenant shall not use or permit the use of the Premises in any manner that creates a nuisance, and shall not use or allow the Premises to be used for any unlawful purpose. Tenant's use shall be compatible with noise levels associated with operating the Airport and shall not unreasonably interfere with the Airport's use, operation and development for flight-related activities and function.

(b) Compliance with Laws. Except as set forth in Section 24 below, Tenant agrees, at its sole expense, to promptly comply with and observe all requirements of law at any time in force during the Term that are applicable to Tenant, the Premises, the contents thereof or the activities therein, including, without limitation, statutes, ordinances, codes, rules, regulations, zoning stipulations, use permits, discretionary approvals, conditional use permits, business licenses and other legal directives. Tenant also agrees to comply at its expense with all requirements of any board of fire underwriters (or of any governmental body having similar functions) or of any liability or fire insurance company insuring Tenant at any time during the Term. Except as set forth in Section 24 below, if any alterations, additions, improvements or changes to the Premises are necessitated by reason of any of the foregoing, whether arising out of Tenant's specific use or occupancy, the general use, occupancy or condition of the Premises, and whether the useful life thereof will exceed the remaining Term, including, without limitation, the installation of fire extinguishing systems and equipment, or compliance with the Americans With Disabilities Act, Tenant must perform such alterations, additions, improvements and changes at its own expense.

(c) Landlord's Rights of Flight

(i) Subject to the FAA Section 163 Determination and Exhibit "B" attached hereto, Tenant hereby covenants that it will not conduct or permit to be conducted any activity on the Premises, or construct any building, structure or improvement or create any natural object on the Premises, which would unreasonably interfere with or be a hazard to the flight of aircraft either to or from the Airport, or unreasonably interfere with air navigation and communication facilities serving the Airport. Landlord has, for the use and benefit of the-public, a right of flight for the passage of aircraft in the airspace above the surface of the Premises, including the right to cause 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 in air or through the airspace or landing at, taking off from, or operating at the Airport.

(ii) Tenant will not make any claim against Landlord under any theory for any interference with Tenant's use of the Premises that may result from noise or vibration resulting from the operation of aircraft at the Airport. Landlord has the right to require to be reasonably marked or lighted, as obstructions to air navigation (in Landlord's reasonable discretion), any and all buildings, structures, or other improvements, and trees or other objects, which extend into or above the airspace. Landlord has the right of ingress to, passage within, and egress from the exterior portion of the Premises subject to prior written notice and the occupants safety and security protocols for the purposes described above at reasonable times and after reasonable notice.

(d) Encumbrances. Without limiting Tenant's rights as set forth in this Lease (including, without limitation, pursuant to Sections 14 and 17 below), Tenant shall have the right to, from time to time, but otherwise subject to the express terms of this Lease, (i) enter into agreements with third parties that affect or encumber the Premises, (ii) grant such easements, rights and dedications that Tenant deems necessary or desirable for the uses permitted by this Lease, and (iii) cause the recordation of covenants, conditions and restrictions against the Premises, provided that the foregoing shall not extend beyond the Term, shall encumber solely

Tenant's leasehold estate, and shall not in any way encumber Landlord's fee interest in the Premises, in each case unless approved by Landlord in its reasonable discretion.

7. Utilities.

Tenant agrees to pay before delinquency all charges for water, gas, heat, electricity, power, telephone, trash, garbage and rubbish removal, sewer, and all other services or utilities used in the Premises by Tenant from and after the Delivery Date. Any security deposit, account setup deposit or similar charges required by any utility company to establish utilities to the Premises must be paid by Tenant. Any existing utility facilities or easements on the Premises that require relocation, resizing or any other modification shall be made at the expense of Tenant. Landlord is not liable in damages or otherwise for any failure or interruption of any utility supplied to the Premises and no such failure constitutes a constructive or actual eviction or a breach of any covenant for quiet enjoyment or of any other covenant of Landlord contained in this Lease, or entitles Tenant to an abatement of rent or to terminate this Lease, unless caused by the gross negligence or willful misconduct of Landlord or any Landlord Indemnitees.

8. Maintenance and Repairs.

(a) Tenant shall at Tenant's sole cost and expense, at all times during the Term of this Lease, maintain the Premises, and each and every part thereof, in good condition and repair, reasonable wear and tear excepted, and shall promptly make any and all repairs and replacements which may at any time be necessary or proper to put and keep the Premises in good condition and repair, reasonable wear and tear excepted, and to keep the Premises and all appurtenances thereto in a good, clean, sightly, safe and wholesome condition. Tenant agrees to pay promptly for any and all labor done or material furnished for any work or repair, maintenance, improvements, alteration or addition done by the Tenant in connection with these items. Landlord shall have no obligation to repair, maintain or replace any portion of the Premises.

(b) Subject to Section 8(c) below, in the event Tenant fails or refuses to perform any repairs required of Tenant hereunder relating to the exterior of the Improvements within thirty (30) days after written notice from Landlord (except in an emergency, in which event Landlord shall only be required to provide such written or non-written notice as is reasonably possible), or, if the nature of such repairs is such that the same cannot reasonably be completed within such thirty (30) day period, if Tenant fails to commence such repairs within such thirty (30) day period and thereafter diligently prosecute the same to completion, then, in addition to all other remedies available hereunder or at law or in equity for Tenant's default, Landlord may, but shall not be obligated to, enter the Premises, and perform or cause to be performed such repairs on behalf of Tenant. All actual, reasonable third-party expenses incurred by Landlord in connection with such repair, together with a five percent (5%) administrative fee, shall be repaid in the form of additional rent to be remitted within thirty (30) days following Tenant's receipt of an invoice for same together with reasonable backup documentation.

(c) If Tenant shall object to any claim of default under Section 8(b) above or the process in 8(d) below, then Tenant may deliver written notice of such objection (an "Objection Notice") to Landlord. If Tenant and Landlord are unable to reach a mutually

agreeable resolution of Tenant's objection, then either party may submit such unresolved dispute to the Judicial Arbitration and Mediation Service ("JAMS") arbitration pursuant to JAMS Streamlined Arbitration Rules & Procedures ("Streamlined Arbitration"), with a concurrent copy to be sent to the other party. The prevailing party in any such Streamlined Arbitration shall be entitled to an award (through such Streamlined Arbitration) for recovery of all reasonable attorneys' fees, expenses and costs of such arbitration. The arbitration shall be binding upon Tenant and Landlord. In connection with any such Streamlined Arbitration, Tenant and Landlord each hereby agree to expedite the discovery, adjudication and decision process, and shall each cooperate with one another and the JAMS arbitrator to establish and agree upon an expedited timeline for the completion of the same. Any arbitrator selected by the parties shall be knowledgeable in construction.

(d) In lease year 15, 30 and 45 of the Term, Tenant covenants to obtain a Property Condition Assessment from a nationally recognized engineering firm (the cost of Property Condition Assessment shall be shared equally by Tenant and Landlord) based on ASTM E 2018-15 requirements, as updated, ("PCA"). Upon receipt of the PCA, the PCA will be reviewed by Landlord and Tenant in a joint meeting to mutually agree on those items (excluding code compliance which shall not be required unless necessary under applicable law) that are listed in the PCA that are material to extend the useful life of systems or the building for a minimum of 5 years beyond the Term of the Lease ("Required PCA Repairs"). Tenant shall cause the Required PCA Repairs to be completed within 12 months of the mutual agreement on the Required PCA Repairs, subject to extension for Force Majeure Delays including governmental permits.

9. Improvements and Alterations.

(a) Subject to Landlord's prior written approval, which shall not be unreasonably withheld, conditioned or delayed, the terms of Exhibit "B" hereto (including the completion and issuance of all required review, certifications and approvals under the California Environmental Quality Act for the Project) and the other applicable terms of this Lease, Tenant shall have the right to construct buildings containing a minimum total of 2,000,000 square feet (in the aggregate) (the "Initial Improvements") on the Premises. Thereafter, Tenant may construct additional Improvements and alter, renovate, add, remodel, modify and/or change the Improvements upon the Premises; provided, however, Tenant shall not make any such alterations that are reasonably expected to impact the exterior appearance of the then-existing Improvements in a material adverse way or make a Material Project Change, without Landlord's written approval (not be unreasonably withheld or delayed) which shall be required to be obtained pursuant to a Landlord Approval Process (an "Exterior Alteration Approval Request"). A "Material Project Change" is a change that requires a material amendment to entitlements or the development guidelines that control the property and Tenant shall not be permitted to make a Material Project Change without both Landlord's written consent and the issuance of any applicable land use, zoning, and California Environmental Quality Act reviews, approvals, and certifications. Notwithstanding anything in the foregoing to the contrary, construction of Tenant's Initial Improvements shall not commence prior to the expiration of the Inspection Period and the occurrence of the Delivery Date.

(b) Prior to commencing the Initial Improvements, Tenant must submit to Landlord for approval (1) reasonably detailed plans for the proposed work (the “Plans”) reasonably satisfactory to Landlord; (2) upon Landlord’s request, a guaranty of completion of the Initial Improvements in the form of Exhibit “E” attached hereto which will terminate upon Substantial Completion of the Initial Improvements (“Completion Guaranty”); and (3) evidence reasonably satisfactory to Landlord that Tenant has obtained, at its own expense, all necessary consents, permits, approvals, certifications and licenses from all governmental authorities having jurisdiction. Landlord shall (at no cost to Landlord) reasonably cooperate with Tenant to the extent reasonably required to obtain all necessary consents, permits, approvals, certifications and licenses from all governmental authorities having jurisdiction.

(c) All work described in subsection (a) above, including but not limited to the construction of the Initial Improvements by Tenant pursuant to Exhibit “B”, must be performed (1) at the sole expense of Tenant; (2) by licensed and competent contractors and workmen; (3) in a good and workmanlike manner, and using materials properly fit for the purpose; and (4) in accordance with applicable law and, with respect to the Initial Improvements only, the Plans approved by Landlord. Upon completion of the Initial Improvements, Tenant agrees to record a so-called “notice of completion” in the County where the Premises is located, if required or permitted by law, and to provide Landlord with proof of payment for all labor and materials, upon written request from Landlord. Additionally, with respect to Tenant’s Initial Improvements, Tenant shall deliver to Landlord (i) an as-built survey of the Premises within one hundred twenty (120) days following such completion, and (ii) a final certificate of occupancy or its equivalent from the applicable governmental authority for such Initial Improvements promptly upon receipt of the same from such applicable governmental authority.

(d) After construction of the Initial Improvements is commenced, it shall be prosecuted diligently in accordance with the Landlord-approved Plans, in a good and workmanlike manner and in compliance with all Legal Requirements and pursuant to the conditions of the governmental approvals until the Initial Improvements are Substantially Completed. Tenant shall use commercially reasonable efforts to Substantially Complete the Initial Improvements by the date that is twelve (12) months following the Commencement Date (the “Initial Improvements Deadline”), provided that the Initial Improvements Deadline shall be subject to extension for Force Majeure Delays, delays caused by Tenant’s obligations with respect to Soil Contamination pursuant to Section 24 below, and delays caused by the acts or omissions of Landlord or any Landlord Indemnitee. “Substantial Completion” of the Initial Improvements shall have occurred when Tenant’s construction of the Initial Improvements has been completed to such an extent that the City’s building and inspection official has issued either a shell completion letter (or equivalent) or a temporary certificates of occupancy for all buildings constructed as part of the Initial Improvements, notwithstanding that minor or insubstantial details of construction, mechanical adjustment or decoration remain to be performed, the non-completion of which would not interfere with opening the Initial Improvements for business. Notwithstanding Substantial Completion of the Initial Improvements, Tenant shall use reasonable efforts to cause its contractor to diligently proceed to complete full construction of the Initial Improvements and obtain a permanent certificate of occupancy for each building constructed as part of the Initial Improvements once there is an occupant or user for such building. Tenant shall deliver to Landlord full and complete “as built” drawings of each building in the Initial Improvements in machine readable format in full conformance with Landlord’s

CAD standards manual and complete operations and maintenance manuals in accordance with Section 9(c) above.

(e) Any alterations to the Premises which are required by reason of any present or future law, ordinance, rule, regulation or order of any governmental authority having jurisdiction over the Premises (including but not limited to the Americans with Disabilities Act) or by any insurance company of Tenant insuring the Premises, and regardless of whether or not such alteration pertains to the nature, construction or structure of any buildings or to the use made thereof by Tenant, shall be performed by Tenant, and shall be at the sole cost of Tenant.

(f) Tenant may, in Tenant's sole discretion and at Tenant's sole cost and expense, contest by appropriate legal proceedings brought in good faith and diligently prosecuted in the name of Tenant, or in the names of Tenant and Landlord, where appropriate or required, the validity or applicability to the Premises of any law, ordinance, rule, regulation or order now or hereafter made by any governmental authority having jurisdiction over the Premises; provided, however, that Tenant shall protect the Premises and Landlord from Tenant's failure to comply during the contest with the law, ordinance, rule, regulation or order.

(g) Tenant shall be and remain owner of all Improvements erected by Tenant throughout the Term of this Lease. Landlord shall automatically become the owner of all Improvements at the end of the Term of this Lease or upon the earlier termination of the Lease, and upon Landlord's request Tenant shall execute and deliver an improvements grant deed or other documents reasonably required to evidence such automatic transfer of ownership.

(h) Tenant shall defend, indemnify and hold the Landlord Indemnitees (as defined in Section 24(c)) harmless from any and all claims, injuries, liability, losses, demands, damages, costs or expenses of any nature (including attorneys' fees, expert fees, consultant fees, and executive and administrative expenses) arising out of or related to the construction or alteration of Tenant's Improvements at the Premises, except to the extent arising from the negligence or willful misconduct of Landlord or any Landlord Indemnitees.

Further, Tenant shall use reasonable efforts to cause to include the following provision in all contracts it enters into for any construction or alteration work at the Premises:

"To the fullest extent permitted by law, Contractor shall defend (with counsel reasonably approved by Landlord), indemnify and hold Landlord, the Landlord Commission, members of the Landlord Commission, its employees, Landlord's members (i.e., the members of the joint powers authority) and their employees, and Landlord's directors, officers, employees, agents, and authorized volunteers (collectively, "Landlord Indemnitees") free and harmless from any and all claims, demands, causes of action, suits, actions, proceedings, costs, expenses, liability, judgments, awards, decrees, settlements, loss, damage or injury of any kind, in law or equity, to property or persons, including wrongful death, (collectively, "Claims") in any manner arising out of, pertaining to, or incident to any alleged acts, errors or omissions, or willful misconduct of Contractor, its officers, employees, subcontractors, independent contractors, consultants or agents in connection with the performance of the Contractor's services, the project, or this Lease, including without limitation the payment of expert witness fees and attorneys' fees and other related costs and expenses (but specifically excluding punitive

damages, speculative damages, and damages for injury or damage to, or interference with, Landlord's business, including but not limited to, loss of profits, loss of rents or other revenues, loss of business opportunity, loss of goodwill or loss of use); provided, however, that where such claims, causes of action, liability, losses, damages, demands or expenses arise from or relate to Contractor's performance of a "Construction Contract" as defined by California Civil Code section 2783, this paragraph shall not be construed to require Contractor to indemnify or hold Landlord harmless to the extent such suits, causes of action, claims, losses, demands and expenses are caused by the Landlord's sole negligence, willful misconduct or active negligence. Notwithstanding the foregoing, to the extent Contractor's services are subject to Civil Code Section 2782.8, the above indemnity shall be limited, to the extent required by Civil Code Section 2782.8, to Claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor. Contractor's obligation to defend and indemnify Landlord Indemnitees shall not be restricted to insurance proceeds, if any, received by the Landlord Indemnitees."

(i) California Labor Code Requirements

(i) Tenant is aware of the requirements of California Labor Code Sections 1720 et seq. and 1770 et seq., as well as Title 8, Section 16000 et seq. of the California Code of Regulations, which require the payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects ("Prevailing Wage Laws"). Part of the initial or later Improvements are an applicable "public works" project subject to the Prevailing Wage Laws, including Labor Code section 1771 (payment of prevailing wage rate), because the Improvements may include the construction of public street improvements. (See Lab. Code, §1720, subds. (a)(1), (a)(3), and (b)(4).) As a result, Tenant and all of its subcontractors shall fully comply with such Prevailing Wage Laws and shall cause all applicable work performed in connection with the Improvements to be performed as a "public work." Tenant shall be solely responsible to determine what parts of the Improvements is subject to the Prevailing Wage Laws, including but not limited to construction, alteration, demolition, installation and repair work, and work performed during the design, site assessment, feasibility study, and other preconstruction phases of construction, including inspection and land surveying work, and work performed during the postconstruction phases of construction, including all cleanup work at the jobsite. (See Lab. Code, §1720, subds. (a)(1), (a)(3), and (b)(4).) Tenant and all of its subcontractors shall pay all workers on applicable Tenant Improvements work performed pursuant to this Lease not less than the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work as determined by the Director of the Department of Industrial Relations, State of California, for the type of work performed and the locality in which the work is to be performed, pursuant to sections 1770 et seq. of the California Labor Code. The general prevailing rates of per diem wages for each craft, classification, or type of worker needed to execute this Lease, as determined by the Department of Industrial Relations are available at <http://www.dir.ca.gov>. Tenant shall also be solely responsible for any and all violations and fines imposed pursuant to the Prevailing Wage Laws. Tenant shall defend, indemnify and hold each of the Landlord Indemnitees free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure by Tenant or any of its subcontractors to comply with the Prevailing Wage Laws. It shall be mandatory upon Tenant and all subcontractors/subconsultants to comply with all California Labor Code provisions, which

include but are not limited to prevailing wages, employment of apprentices, hours of labor, debarment of contractors and subcontractors, and payroll records.

(ii) Pursuant to Labor Code Sections 1725.5 and 1771.1, Tenant and all subcontractors/subconsultants performing applicable Improvements that are subject to the Prevailing Wage Laws must be registered with the Department of Industrial Relations. Tenant shall maintain registration for the duration of the project and require the same of any subcontractors/subconsultants, as applicable. All or part of the Improvements may be subject to compliance monitoring and enforcement by the Department of Industrial Relations. Tenant shall post applicable job site notices, as prescribed by the Prevailing Wage Laws. Without limiting the foregoing, Tenant, as applicable, shall comply with all requirements of Labor Code 1771.4, including the registration and compliance monitoring provisions and furnishing its certified payroll records to the Labor Commissioner of California, and shall comply with any applicable enforcement by the Department of Industrial Relations. It shall be Tenant's sole responsibility to comply with all applicable registration and labor compliance requirements.

10. Real Property Taxes.

(a) Payment. Commencing on the Commencement Date and for the balance of the Term of this Lease, Tenant shall pay all Real Property Taxes (as defined in Subsection 10(b) below) applicable to the Premises and the Improvements thereon in accordance with this Section 10. All such payments shall be made prior to the delinquency date of the applicable installment. Upon Landlord's request, Tenant shall promptly furnish Landlord with satisfactory evidence that such taxes have been paid. If any such taxes to be paid by Tenant shall cover any period of time prior to the Commencement Date or after the expiration or earlier termination of the Term hereof, Tenant's share of such taxes shall be equitably prorated to cover only the period of time within the tax fiscal year this Lease is in effect, and Landlord shall reimburse Tenant for any overpayment after such proration, but in no event later than thirty (30) days after the termination of this Lease. If Tenant shall fail to pay any Real Property Taxes required by this Lease to be paid by Tenant within five (5) business days after receipt of notice from Landlord, Landlord shall have the right to pay the same, and interest and late charges shall apply (as set forth in Subsection 4(c) above) against such amount until such time as Tenant shall reimburse Landlord therefor, which reimbursement shall be due within thirty (30) days of demand by Landlord.

(b) Real Property Taxes Defined. The term "Real Property Taxes" for the purpose of this Lease shall include the following: (i) any form of real estate or possessory interest tax or assessment, general, special, ordinary or extraordinary, and any license fee, commercial rental tax, improvement bond or bonds, levy or tax (other than inheritance, personal income, franchise, gift, capital stock or estate taxes in connection with this Lease or Landlord's rights in the Premises, each of which shall not be included in the definition of Real Property Taxes) imposed upon the Premises and Improvements by any authority having the direct or indirect power to tax, including any city, state or federal government, or any school, agricultural, sanitary, fire, street, drainage or other improvement district thereof, and including but not limited to any increases in same triggered by any change in ownership of, and/or improvements to, the Premises; (ii) any other taxes, charges and assessments which are levied with respect to any improvements, fixtures and equipment and other property, real or personal, located on the

Premises and the land upon which they are situated; (iii) fees or assessments for any governmental services to the Premises; (iv) service payments in lieu of taxes; and (v) any gross receipts tax and/or any tax which shall be levied in addition to or in lieu of real estate, possessory interest or personal property taxes under the Lease.

(c) Personal Property Taxes. Tenant shall pay prior to delinquency all taxes assessed against and levied upon the improvements, alterations, utility installations, trade fixtures, furnishings, equipment and all personal property of Tenant contained in the Premises.

(d) Right to Contest Taxes. Tenant shall have the right to contest, by appropriate proceedings, the amount or validity, in whole or in part, of any Real Property Taxes. In the event the applicable taxing authority having jurisdiction over the contest proceedings allows the posting of security or some other method of deferring payment of the disputed Real Property Taxes, Tenant may do so; otherwise Tenant shall not postpone or defer payment of any disputed Real Property Taxes but shall pay such Real Property Taxes in accordance with Section 10(a) notwithstanding such contest. Landlord shall have no obligation to join in any such proceedings, other than to execute such consents or acknowledgments as Tenant may reasonably request to enable Tenant to proceed with the contest, at Tenant's expense.

(e) Allocation of Possessory Interest Taxes. The parties acknowledge that since Landlord is a governmental agency, there are no real estate taxes or assessments currently levied against the Premises, and that this Lease shall be deemed to be a taxable possessory interest payable by Tenant. Tenant shall pay all such possessory interest taxes and assessments as part of Real Property Taxes. Tenant shall have the right to request that the applicable taxing authority allocate such possessory interest taxes and assessments among portions of the Project (as allocated in Tenant's reasonable discretion), and Landlord will cooperate with Tenant in connection with obtaining such allocations.

11. Tenant's Insurance. Tenant shall, during the Term hereof, procure and maintain, or cause to be procured and maintained and keep in full force and effect the following insurance:

(a) commercial general liability insurance policy or policies covering the entire Premises (including any elevators and escalators therein), naming Landlord (and its constituent members) as additional insureds, and insuring against all direct or contingent loss or liability for damages for bodily injury or death or damage to property, including loss of use thereof, occurring on or in any way related to the Premises or occasioned by reason of the occupancy by or the operations of Tenant or its subtenants upon, in or around the Premises, with a combined single limit of not less than \$10,000,000 for each occurrence of bodily injury or death or damage to property; such coverage may be achieved by a combination of general liability and excess coverage limits;

(b) a policy of special form property insurance issued with respect to the Premises insuring against damage or loss sustained by virtue of fire, vandalism, malicious mischief and other risks formerly covered under "all risk" insurance (excluding earthquakes), in an amount not less than 100% of the full insurable value (i.e., actual replacement cost less cost of land excavation, foundations and footings, paving and landscaping), as reasonably determined by Tenant (with reasonable approval of the verification of the estimated actual replacement cost and

the estimate of the costs for such deductions from Landlord), of the Premises, but subject to such deductibles as Tenant may reasonably establish. Earthquake coverage may be obtained by Tenant in form and substance as Tenant may elect, in its reasonable discretion, or as required by its Lender;

(c) a policy of rental insurance from loss of rental income due to fire, earthquake or boiler damage or destruction to all or any part of the Premises for the period of time that is reasonably required with the exercise of due diligence and dispatch to restore the damaged or destroyed Premises to occupancy by a tenant;

(d) if Tenant or its subtenants, if any, has employees, a policy of workers' compensation insurance as required by applicable law; *provided*, that Tenant and such subtenants may be a self-insurer as to workers' compensation insurance if permitted by law;

(e) a policy of employer's liability insurance of \$1,000,000;

(f) a policy of commercial automobile liability insurance with minimum limits of One Million Dollars (\$1,000,000.00) for non-airside circulation per occurrence, combined single limit for Bodily Injury Liability and Property Damage Liability. All of the foregoing insurance may be procured and maintained as part of or in conjunction with any other policy or policies carried by Tenant.

(g) In the event Tenant shall perform any work at the Premises, Tenant shall keep, or cause the contractor(s) performing such work to keep insured under builder's risk insurance (or similar insurance) in such amount as Tenant, in its reasonable business judgment, shall determine to be adequate and which Landlord shall have approved, which approval will not be unreasonably withheld, conditioned or delayed. Coverage shall include all materials, supplies and equipment that are intended for specific installation on the Premises while such materials, supplies and equipment are located in or on the Premises, in transit and while temporarily located away from the Premise for the purpose of repair, adjustment or storage at the risk of one of the insured parties. Such insurance shall name Landlord as additional insured thereunder. In the event of any recovery under such insurance, the proceeds thereof shall be paid to Tenant and applied to the payment of the costs of such work.

(h) Upon or prior to the commencement of the Term, Tenant shall furnish to Landlord certificates of the insurance and policy endorsements showing the amount and type of the insurance then in effect that is required to be procured and maintained, or caused to be procured and maintained, by it hereunder and stating the date and term of the policies evidencing such insurance and, with respect to the insurance required, that the policy and policies of such insurance insures Tenant against the liability of Tenant, to the extent Tenant's liability is insurable, and certificates and endorsements or other evidence that the insurance so procured and maintained by Tenant complies with the requirements hereof as to amount, type and parties insured. Certificates and endorsements evidencing any renewal, replacement or extension of any or all of the insurance required hereunder, or of renewals, replacements or extensions of such renewals, replacements or extensions, shall be delivered by Tenant to Landlord prior to the expiration of any policy of insurance renewed, replaced or extended by the insurance represented by any such certificate and/or endorsement.

(i) The insurance required to be procured and maintained shall not limit or prohibit, or be construed as limiting or prohibiting, Landlord or Tenant from obtaining any other or greater insurance with respect to the Premises or the use and occupancy thereof that either or both of them may wish to carry, but in the event Landlord or Tenant, as applicable, shall procure or maintain any such insurance not required by this Lease, the cost thereof shall be at the expense of the party procuring or maintaining the same.

(j) Landlord shall review the amounts and types of insurance set forth in this Lease from time to time (but not more frequently than every five (5) years) and may adjust such amounts and types of insurance if it reasonably determines such adjustments are necessary to protect its interests and if it makes the adjusted insurance requirements applicable to all similar Airport users. Tenant shall obtain such additional insurance within ninety (90) days after its receipt of demand therefor from Landlord.

(j) All policies of insurance required to be procured and maintained under this Section shall comply with the requirements of Exhibit "C" attached hereto.

(k) Each insurance policy obtained by Tenant pursuant to this Lease shall be taken out with an insurance company authorized to do business in the State of California and rated not less than Financial Class XIII and Policy Holder Rating "A-/VII" in the current issue of A.M. Best's Key Rating Guide. In addition, any insurance policy obtained by Tenant shall be written as a primary policy, non-contributing with or in excess of any coverage which Landlord may carry, with loss payable clauses reasonably satisfactory to Landlord and in favor of Landlord and naming Landlord and any lender of Landlord as additional insureds. If Tenant fails to maintain and secure the insurance coverage required under this Section 11 within five (5) business days after receipt of written notice from Landlord, then Landlord shall have, in addition to all other remedies provided herein and by law, the right, but not the obligation, to procure and maintain such insurance, the cost of which shall be due and payable to Landlord by Tenant within thirty (30) days after demand.

12. Damage and Destruction.

(a) Tenant shall, at its sole cost and expense, make all repairs, reconstructions or replacements necessitated by any casualty damage to the Improvements from and after the Delivery Date, solely to the extent insurance proceeds are available for same. Except as set forth in Section 12(b) below, Tenant shall be entitled to all proceeds of insurance and rights of recovery against insurers on policies covering such damage or destruction.

(b) Notwithstanding anything in Section 12(a) above to the contrary, if the Improvements shall be damaged or destroyed by fire or other casualty that are not covered by insurance or if any lender of Tenant shall require that insurance proceeds therefor be applied to any outstanding indebtedness, or, during the last two (2) years of the Term, all or any portion of the Improvements shall be damaged or destroyed by fire or other casualty to the extent that the cost to repair or rebuild an individual building (during the last 2 years of the Term) shall exceed Two Hundred Thousand and No/100 Dollars (\$200,000.00) (as such amount shall be adjusted annually commencing the year after the Effective Date by the California Construction Cost Index prepared or produced by the Engineering News Record), Tenant may, at Tenant's option, to be

evidenced by notice in writing given to Landlord within sixty (60) days after the occurrence of such damage or destruction, elect not to rebuild or restore the portion of the Improvements damaged but Tenant shall remain obligated to pay Rent for the balance of the Term. In the event Tenant elects to not rebuild or restore the portion of the Improvements damaged, Landlord shall be entitled to, and Tenant shall assign and/or pay over to Landlord, all proceeds of insurance, if any, and rights of recovery against insurers on policies covering such damage or destruction, minus costs and expenses of collection thereof and Tenant's cost of demolition of the building(s) and restoration of building(s) pads, if applicable. Additionally Tenant shall, at the request of Landlord, demolish the building(s), including the foundation and footers, cap all utilities serving the building(s) at a point outside of the building area, restore the building pad(s) to an unimproved, rough graded condition and remove all debris from the Premises. In addition to the obligations of Tenant in Section 11 above, Tenant agrees to procure and maintain, or cause to be procured and maintained business interruption/or rental abatement insurance during the last 3 years of the Term of the Lease in an amount to cover up to 2 years of Rent in the event of a casualty described in Section 12(b).

(c) Tenant has no right to any abatement, allowance, reduction, or suspension of Rent on account of damage or destruction of the Premises or any portion thereof. Tenant is not entitled to any compensation or damages from Landlord for loss of use of the whole or any part of the Improvements, any of Tenant's personal property, or for any inconvenience or annoyance occasioned by the damage or destruction or the restoration thereof, except to the extent caused by the gross negligence or willful misconduct of Landlord or any Landlord Indemnitees. Tenant expressly waives any statutory or other right now or hereafter in force to abate rent or terminate this Lease in the event of damage or destruction of all or any portion of the Premises.

13. Eminent Domain.

(a) Total Taking. If the whole of the Premises, or such part thereof and/or streets or other means of access or appurtenances thereto as substantially and permanently interferes with Tenant's use and occupancy thereof for the purposes Tenant was using and occupying same immediately prior to the taking (a "Total Taking"), shall be taken for a public or quasi-public use by the exercise of the power of eminent domain or by purchase under threat of condemnation by any governmental agency, Tenant shall have the right to terminate this Lease in its entirety on the date the condemning authority actually consummates such taking of the Premises, and if Tenant so terminates the Lease, the rent required to be paid by Tenant hereunder shall be appropriately prorated and paid to such date of taking or reduced as provided hereinbelow. If the Lease is not terminated by Tenant in accordance with this Section 13(a), the Ground Rent hereunder shall be reduced in an equitable manner to reflect the effect of such taking on the conduct of Tenant's business on the Premises. In the event of any such taking, Landlord and Tenant may, but shall not be obligated to make one combined claim or separate claims for an award for their respective interests in the Premises and Improvements including an award for severance damages if less than the whole shall be so taken. If the whole or substantially all of the Premises shall be so taken, then the proceeds from such condemnation ("Condemnation Proceeds") shall be distributed to Tenant (subject to the rights of the applicable mortgagee under its mortgage) to the extent that it is attributable to the Improvements, Tenant's Leasehold Interest or Tenant's personal property (or that of its invitees, agents, or subtenants)

and to Landlord to the extent that it is attributable to Landlord's fee and/or reversionary interests in the Premises and/or Improvements, respectively.

(b) Partial Taking. If less than all of the Premises, such that there is not a Total Taking, shall be taken for any public or quasi-public use under the power of eminent domain or by purchase under threat of condemnation by any governmental agency, Tenant shall give prompt notice thereof to Landlord, this Lease shall terminate as to the part so taken, but otherwise continue in full force and effect and rent shall be equitably abated. Tenant shall proceed, with reasonable diligence, to perform any necessary repairs and to restore the Premises to an economically viable unit in strict accordance with all legal requirements, either to the condition the Premises were in immediately prior to such taking or with modified or new Improvements. The Condemnation Proceeds shall be paid to Tenant or as Tenant may direct (subject to the rights of any mortgagee) as the restoration or replacement of the Improvements progresses, to pay or reimburse Tenant for the cost of such restoration. Any portion of the Condemnation Proceeds not so used for such restoration shall be paid to Tenant (subject to the rights of any mortgagee) to the extent that it is attributable to the Improvements, Tenant's Leasehold Interest or Tenant's personal property (or that of its invitees, agents, or subtenants) and to Landlord to the extent that it is attributable to Landlord's fee and/or reversionary interests in the Premises and/or Improvements, respectively.

(c) Temporary Taking. If the temporary use (but not leasehold title) of the whole or any part of the Premises shall be taken as aforesaid, this Lease shall not be affected in any way and Tenant shall continue to pay all rent due hereunder. All Condemnation Proceeds as a result of such temporary use shall be paid to Tenant. Notwithstanding the foregoing, if such temporary taking persists for more than one (1) year, the rights and obligations of the parties shall be governed by the terms and conditions of Subsection 13(b) above.

(d) Proceedings. In any condemnation proceeding affecting the Premises, the Improvements or Tenant's personal property, both parties shall have the right to appear in and defend against such action as they deem proper in accordance with their own interests. To the extent possible, the parties shall cooperate to maximize the Condemnation Proceeds payable by reason of the condemnation. Issues between Landlord and Tenant required to be resolved pursuant to this subsection shall be joined in any such condemnation proceeding so long as such joinder does not adversely impact the separate interests of the parties and to the extent such joinder is permissible under then applicable procedural rules of such court of law or equity for the purpose of avoiding multiplicity of actions and minimizing the expenses of the parties.

14. Assignment, Licensing and Subletting.

(a) Tenant, without Landlord's approval but with thirty (30) days' prior notice to Landlord, shall have the right to assign its interest in this Lease to an Affiliate of Tenant or to a corporation or other entity with which Tenant may merge, provided that (a) such assignment is not a subterfuge by Tenant to avoid its obligations under this Lease, and (b) the assignee's tangible net worth is equal to or greater than the tangible net worth of Tenant prior to such assignment. For purposes of this Section 14, "Affiliate" shall mean any person or entity controlling Tenant, controlled by Tenant, or under common control with those controlling Tenant, and "controlling" shall mean having greater than fifty percent (50%) of the ownership or

voting power of such entity. No assignment made pursuant to this Section 14(a) shall relieve Tenant or Guarantor from liability under this Lease for events occurring prior to such assignment, but shall automatically relieve Tenant from liability under this Lease for events occurring on the day of, and after, such assignment. Guarantor shall remain liable under the Lease Guaranty after the date of an assignment under Section 14(a) subject to the terms of Exhibit "D".

(b) Tenant, without Landlord's approval and without notice to Landlord, shall have the right to enter into one (1) or more sublease, license and/or concession agreement for all or any portion of the Premises (each, a "Sublease"), provided that the term of each Sublease will expire concurrently or prior to the expiration of this Lease, and each Sublease expressly incorporates the relevant terms and conditions of this Lease. Notwithstanding any Sublease made pursuant to this Section 14(b), however, Tenant shall remain liable for all of its obligations under this Lease and Guarantor shall remain liable for all of its obligations under the Guaranty during the Sublease term, unless Landlord provides written consent. Upon request from Tenant for a Sublease Recognition Agreement, Landlord shall be provided a copy of the proposed sublease, and Landlord hereby agrees to review such sublease and reasonably consent to such terms and recognize any subtenant under a Sublease pursuant to a sublease recognition agreement in the form of Exhibit "F" attached hereto (each, a "Sublease Recognition Agreement"). Landlord shall execute and deliver a Sublease Recognition Agreement within ten (10) business days following written request from Tenant. Tenant shall have the right to record any Sublease Recognition Agreement, at Tenant's sole cost and expense.

(c) Landlord's prior written consent shall be required for any assignment not provided for in Sections 14(a) and 14(b) above. The consent by Landlord to any transfer, assignment, change of ownership or hypothecation that is required under this Section 14(c) shall be valid for a period of six (6) months to allow Tenant to complete the identified transaction and such consent by Landlord shall not be unreasonably withheld, conditioned or delayed. Landlord's review for reasonableness of its written consent for an assignment or transfer to a user, operator, or investor shall include Landlord's reasonable evaluation of the prospective assignee's financial status to confirm it is sufficient to perform all obligations of Tenant under a specific Project Ground Lease. If such prospective assignee or transferee is an investor, and not a user or operator, Landlord may also include the reasonable evaluation of such investor's assets under management and industrial management experience of the management team. No assignment made pursuant to this subsection (c) shall relieve Tenant from liability under this Lease for events occurring prior to such assignment, however, Tenant shall be automatically relieved of its obligations and from liability under this Lease for events occurring on the day of, and after such assignment, and Guarantor shall be automatically relieved of its obligations under the Lease Guaranty, as of the date of such written consent to assignment.

(d) The restrictions against assigning or other transfers set forth in Section 14(c) above shall be construed to include a restriction against any assignment or other transfer (excluding a Sublease) by operation of law. If Tenant is a corporation, or is an unincorporated association or partnership or limited liability company, the transfer, assignment or hypothecation of any stock or interest in such corporation, association or partnership or limited liability company in the aggregate in excess of forty-nine percent (49%) shall be deemed an assignment within the meaning and provisions of this Section 14.

(e) In giving notice to Landlord under Section 14(a) above, or in requesting Landlord's consent under Section 14(c) above, Tenant must provide Landlord with at least thirty (30) days' prior written notice of the proposed assignment or transfer, including the identity of the proposed transferee, current financial statements of Tenant and the proposed transferee, and the material terms of the assignment or transfer. If Landlord determines the financial condition of the proposed transferee is sufficient (in Landlord's reasonable determination) to fulfill the obligations under the Lease, Landlord may waive the Takeout Loan LTV Covenant (as defined in Section 17(a)) for the proposed transferee. Any assignment or transfer (excluding a Sublease), regardless of whether Landlord's consent is required, must be evidenced by a written instrument in form reasonably satisfactory to Landlord in which the transferee assumes and agrees to observe and perform all terms and conditions applicable to Tenant under this Lease, which instrument must be executed by Tenant and the transferee, and a copy thereof delivered to Landlord. The consent by Landlord to any assignment or transfer does not release Tenant from the obligation, if applicable, to obtain the consent of Landlord to any further assignment or transfer to the extent required pursuant to Section 14(c) above.

(f) In the event of a subletting of the entire Premises, Landlord may collect rent from the subtenant, and apply the net amount collected to the rent herein reserved, but no such collection shall be deemed a release of Tenant from the further performance by Tenant of covenants on the part of Tenant herein contained unless expressly made in writing by Landlord. In the event of default by any sublessee of Tenant of the entire Premises in the performance of any of the terms hereof, Landlord may proceed directly against Tenant without the necessity of exhausting remedies against such sublessee. If Tenant effects an assignment or subletting or requests the consent of Landlord to any assignment or transfer (whether or not same is consummated), then, upon demand, Tenant agrees to pay Landlord's reasonable attorneys' fees and costs incurred by Landlord in reviewing and documenting such transfer.

(g) Landlord shall have the right to transfer, assign and convey, in whole or in part, any or all of the right, title and interest in the Premises, and be relieved and released from all liability under this Lease thereafter accruing, provided such transferee, assignee or grantee shall be bound by the terms, covenants and agreements herein contained and shall expressly assume and agree to perform the covenants and agreements of Landlord herein contained thereafter accruing. Landlord shall provide written notice to Tenant of such assignment. This Lease is not affected by any sale, transfer, assignment or disposal of Landlord's interest, and Tenant agrees to attorn to Landlord's purchaser or assignee.

15. Default by Tenant.

(a) Events of Default. The occurrence of any one or more of the following events shall constitute a material default and breach of this Lease by Tenant (each an "Event of Default"):

(i) Any failure by Tenant to pay the rent required hereunder, or to make any other payment required to be made by Tenant hereunder, where such failure continues for five (5) business days after Landlord's written notice to Tenant that same is delinquent (a "Monetary Event of Default").

(ii) A failure by Tenant to observe and perform any other provision of this Lease to be observed or performed by Tenant, where such failure continues for thirty (30) days after written notice thereof by Landlord to Tenant; provided, however, that if the nature of such default is such that the same cannot reasonably be cured within such thirty (30) day period, Tenant shall not be deemed to be in default if Tenant shall within such period commence such cure and thereafter diligently prosecute the same to completion; and provided further that if such default is caused by the acts or omissions of subtenant or other transferee under a Sublease, then no Event of Default shall exist under this Lease so long as Tenant is using commercially reasonable efforts to cause such subtenant or other transferee to timely cure such default.

(iii) A default under any Project Ground Lease (as defined in Section 27).

(iv) The making by Tenant of any general assignment for the benefit of creditors; the filing by or against Tenant of a petition to have Tenant adjudged a bankrupt or of a petition for reorganization or arrangement under any law relating to bankruptcy (unless, in the case of a petition filed against Tenant, the same is dismissed within sixty [60] days); the appointment of a trustee or receiver to take possession of substantially all of Tenant's assets located at the Premises, or of Tenant's interest in this Lease, where possession is not restored to Tenant within thirty (30) days; or the attachment, execution or other judicial seizure of substantially all of Tenant's assets located at the Premises or of Tenant's interest in this Lease, where such seizure is not discharged within thirty (30) days.

(v) A failure by Guarantor to observe and perform any applicable provision of this Lease and/or any provision of the Lease Guaranty (Exhibit "D") to be observed or performed by Guarantor, where such failure continues for thirty (30) days after written notice thereof by Landlord to Guarantor; provided, however, that if the nature of such default is such that the same cannot reasonably be cured within such thirty (30) day period, Guarantor shall not be deemed to be in default if Guarantor shall within such period commence such cure and thereafter diligently prosecute the same to completion.

(vi) Notification of any default described in this Section 15 shall be in lieu of, and not in addition to, any notice required under Sections 1161 et seq. of the California Code of Civil Procedure, as amended.

(b) Landlord's Option to Terminate. In the Event of Default of this Lease by Tenant, as defined in Subsection 15(a) with further notice and without limiting Landlord in the exercise of any right or remedy which Landlord may have be reason of such default; Landlord may:

(i) Terminate Tenant's right to possession of the Premises by any lawful means, in which case this Lease and the term hereof shall terminate and Tenant shall immediately surrender possession of the Premises to Landlord, in which case Landlord shall not be entitled to any damages in connection with such termination.

(ii) The expiration or termination of this Lease and/or the termination of Tenant's right to possession shall not relieve Tenant from liability under any indemnity

provisions of this Lease as to matters occurring or accruing during the term hereof or by reason of Tenant's occupancy of the Premises.

(c) Landlord's Right of Entry. In the event of any such Event of Default by Tenant, Landlord shall also have the right, without terminating this Lease, to reenter the Premises and remove all persons and property therefrom by summary proceedings or otherwise, such property may be removed and stored in a public warehouse or elsewhere at the cost of and for the account of Tenant.

(d) Right to Recover Rental or Relet Without Termination. Except as set forth in any Sublease Recognition Agreement, in the event that Landlord elects to reenter as provided in Subsection 15(c) above or takes possession of the Premises pursuant to legal proceeding or pursuant to any notice provided by law, and if Landlord does not elect to terminate this Lease as provided in Subsection 15(b) above, then Landlord may continue this Lease in full force and effect and not terminate Tenant's right to possession, and enforce all of Landlord's rights and remedies under this Lease. In such event (or in the event Landlord elects not to reenter the Premises and/or take possession of the Premises), Landlord shall have the remedy described in California Civil Code Section 1951.4 (Landlord may continue Lease in effect after Tenant's breach and recover rent as it becomes due, if Tenant has the right to sublet or assign, subject only to reasonable limitations and Landlord's obligation to mitigate damages). In such event, Landlord may, from time to time, without terminating this Lease, either recover all rental as it becomes due or relet the Premises or any part thereof for the account of Tenant on such term or terms and at such rental or rentals and upon such other terms and conditions as Landlord in its reasonable business judgment may deem advisable, with the right to make alterations and repairs to the Premises. In the event that Landlord shall elect so to relet, then rentals received by Landlord from such reletting shall be applied first, to the payment of any indebtedness other than rent due hereunder, owed by Tenant to Landlord; second, to the payment of any cost of such reletting; third, to the payment of the cost of any alterations and repairs to the Premises; fourth, to the payment of rent due and unpaid hereunder; and the residue, if any, shall be held by Landlord and applied in payment of future rent as the same may become due and payable hereunder. Should that portion of such rentals received from such reletting during any month, which is applied to the payment of rent hereunder, be less than the rent payable during that month by Tenant hereunder, then Tenant shall pay such deficiency to Landlord upon demand. Such deficiency shall be calculated and paid monthly. Tenant shall also pay to Landlord, as soon as ascertained, any costs and expenses incurred by Landlord in such reletting or in making such alterations and repairs not covered by the rentals received from such reletting.

(e) No Election to Terminate Without Written Notice. No reentry or taking possession of the Premises by Landlord pursuant to this Section 15 shall be construed as an election to terminate this Lease unless a written notice of such intention be given to Tenant or unless the termination thereof be decreed by a court of competent jurisdiction. Landlord may at any time after such reletting elect to terminate this Lease for any such default by Tenant.

(f) Waiver of Consequential Damages. The remedies given to Landlord in this Section 15 shall be in addition to and supplemental to all other rights or remedies which the Landlord may have under the laws then in force. Any notice required by this Section 15 is intended to satisfy to the maximum extent possible any and all notice requirements imposed by

law on Landlord. Landlord may elect to serve a statutory notice to quit, a statutory notice to pay rent or quit, or a statutory notice of default, as the case may be, to effect the giving of any notice required by this Section 15. Notwithstanding anything to the contrary contained herein, in no event shall Tenant be liable for punitive damages, speculative damages, and damages for injury or damage to, or interference with, Landlord's business, including but not limited to, loss of profits, loss of rents or other revenues, loss of business opportunity, loss of goodwill or loss of use.

(g) No Waiver. The waiver by Landlord of any breach of any term, covenant or condition herein contained shall not be deemed to be a waiver of such term, covenant or condition or any subsequent breach of the same or any other term, covenant or condition herein contained. The subsequent acceptance of rent hereunder by Landlord shall not be deemed to be a waiver of any preceding breach by Tenant of any term, covenant or condition of this Lease, other than the failure of Tenant to pay the particular rental so accepted, regardless of Landlord's knowledge of such preceding breach at the time of acceptance of such rent. No covenant, term, or condition of this Lease shall be deemed to have been waived by Landlord unless such waiver be in writing signed by Landlord.

16. Default by Landlord.

(a) Landlord shall in no event be charged with default in the performance of any of its obligations hereunder unless and until Landlord shall have failed to perform such obligations within thirty (30) days (or such additional time as is reasonably required to correct any such defaults) after written notice by Tenant to Landlord properly specifying wherein Landlord has failed to perform any such obligation.

(b) In the event that Landlord is liable to Tenant for damage sustained by Tenant as a result of Landlord's breach, it is expressly understood and agreed that any money judgment resulting from any default or other claim arising under this Lease shall be satisfied only out of Landlord's interest in the Premises, and no other real, personal or mixed property of Landlord, wherever situated, shall be subject to levy on any such judgment obtained against Landlord and if such interest is insufficient for the payment of such judgment, Tenant will not institute any further action, suit, claim or demand, in law or in equity, against Landlord for or on the account of such deficiency. Tenant hereby waives, to the extent waivable under law, any right to satisfy said money judgment against Landlord except from Landlord's interest in the Premises. In no event shall Landlord be liable for any punitive damages, speculative damages, and damages for injury or damage to, or interference with, Tenant's business, including but not limited to, loss of profits, loss of rents or other revenues, loss of business opportunity, loss of goodwill or loss of use.

(c) If the Premises or any part thereof are at any time subject to a mortgage or a deed of trust ("Mortgage") and this Lease or the rentals due from Tenant hereunder are assigned to such mortgagee, trustee or beneficiary (referred to as "Mortgagee" for purposes of this Lease) and Tenant is given written notice thereof, including the address of such Mortgagee, then Tenant shall not terminate this Lease for any default on the part of Landlord without first giving written notice to such Mortgagee, specifying in detail the default complained of, and affording such Mortgagee a period of thirty (30) days (or such additional time as is reasonably

required to correct any such defaults) in order to make performance for and on behalf of Landlord. If and when the Mortgagee has made performance on behalf of Landlord, such default shall be deemed cured.

17. Leasehold Mortgages.

(a) Prior Notice Required; Limited Purpose. Upon prior notice to Landlord, but without Landlord's prior approval, Tenant shall have the right to mortgage its leasehold interest under this Lease and Tenant's interest in the Improvements (the "Leasehold Interest"), subject to the limitations set forth in this Article. Any such mortgage ("Leasehold Mortgage") shall be for a term not to exceed the Term of this Lease, shall be in an amount not to exceed the loan to value covenant set forth in the following sentence and shall be subject and subordinate to the FAA Section 163 Determination and the rights of Landlord. Tenant covenants (i) the construction loan for the Initial Improvements shall be in an amount not to exceed a maximum (to be determined one time at the recording of the loan) of 65% of the stabilized value of the completed building ("Loan to Value" or "LTV") which LTV shall be established by the lenders appraisal ("Initial Construction Loan LTV Covenant") and (ii) the takeout loan(s) or permanent loans for the Initial Improvements shall be in an amount not to exceed a maximum LTV of 70% (to be determined one time at the recording of the loan) which LTV shall be ratio established by the lender's appraisal ("Take Out Loan LTV Covenant"). The fee estate in the Premises and Landlord's interest under this Lease shall not be subordinate to, and Landlord shall not be required to subject its fee estate and interest in the Premises or this Lease, to the lien of any Leasehold Mortgage. Additionally, Tenant agrees to provide Landlord with a copy of the Note and Deed of Trust and to disclose the following: lender name, maturity date, initial loan amount, rate, and monthly payments.

(b) No Benefit Without Notice. No holder ("Leasehold Mortgagee") of a Leasehold Mortgage on this Lease shall have the rights or benefits mentioned in this Section 17, nor shall Landlord be bound by this Section 17, unless and until an executed counterpart of such Leasehold Mortgage (or any assignment thereof), together with a written notice setting forth the name, address, contact person (or department) for the Leasehold Mortgagee, is delivered to Landlord. The Leasehold Mortgagee may designate other contact information by providing notice thereof to Landlord in the manner provided by Section 23 of this Lease.

(c) Obligations to Leasehold Mortgagee. If Tenant mortgages this Lease in compliance with this Section then so long as such Leasehold Mortgage shall remain unsatisfied of record, the following provisions shall apply:

(i) Notice of Default to Leasehold Mortgagee. Landlord, upon providing Tenant any notice of (i) default under this Lease or (ii) a termination of this Lease, or (iii) a matter upon which Landlord may predicate or claim a default, shall at the same time provide a copy of such notice to every Leasehold Mortgagee. After such notice has been given to a Leasehold Mortgagee, such Leasehold Mortgagee shall have the same period after the giving of such notice upon it for remedying any default or causing the same to be remedied as is given Tenant after the giving of such notice to Tenant plus, in each instance, the additional periods of time specified in Sections 17(c)(ii) and 17(c)(iii), to remedy, commence remedying, or cause to be remedied the defaults specified in any such notice. Landlord agrees that it shall accept such

performance by or at the instance of the Leasehold Mortgagee as if the same had been made by Tenant. For such purpose, Landlord and Tenant hereby authorize the Leasehold Mortgagee to enter upon the Premises and to exercise any of Tenant's rights and powers under this Lease and, subject to the provisions of this Lease, under the Leasehold Mortgage.

(ii) Cure Notice to Leasehold Mortgagee. Notwithstanding anything to the contrary in this Lease, if any Event of Default shall occur that entitles Landlord to terminate this Lease, Landlord shall have no right to terminate this Lease unless, following the expiration of the period of time given Tenant to cure such default, Landlord shall notify ("Cure Notice") every Leasehold Mortgagee of Landlord's intent to so terminate at least sixty (60) days in advance of the proposed effective date of such termination if the nature of such default is the failure to pay a sum of money, and at least ninety (90) days in advance of the proposed effective date of such termination if such default is not the failure to pay a sum of money, and Leasehold Mortgagee fails to cure such default within the respective time period; provided, however, that if such default is curable but cannot be cured within the respective time period, Leasehold Mortgagee fails to commence to cure such default within such time period. Notwithstanding the foregoing, a six (6) month extension of the date for termination of this Lease as provided in Section 17(c)(iii) shall be granted by Landlord if, during such sixty (60) or ninety (90) day Cure Notice period, any Leasehold Mortgagee: (A) notifies Landlord of such Leasehold Mortgagee's desire to nullify such Cure Notice; (B) pays or causes to be paid all Ground Rent and other payments then due and in arrears as specified in the Cure Notice to such Leasehold Mortgagee and that may become due during such 60- and 90-day period, provided that any Leasehold Mortgagee shall not be required to pay any amount before the same is due and owing under this Lease; and (C) complies or in good faith, with reasonable diligence and continuity, commences to comply with all non-monetary requirements of this Lease then in default and reasonably susceptible of being complied with by such Leasehold Mortgagee. Nothing herein obligates such Leasehold Mortgagee to cure any default of Tenant under the terms of this Lease.

(iii) Six-Month Extension. If Landlord elects to terminate this Lease by reason of any default of Tenant, and a Leasehold Mortgagee shall have proceeded in the manner provided for by Section 17(c)(ii) above with respect to the six (6)-month extension, the specified date for the termination of this Lease as fixed by the Landlord in its Cure Notice and Leasehold Mortgagee's cure period shall be extended for a period of six (6) months, provided that such Leasehold Mortgagee, during such 6-month period:

(A) Pays or causes to be paid Ground Rent and other monetary obligations of Tenant under this Lease as the same become due; and

(B) Continues its good faith efforts to perform all of Tenant's other obligations under this Lease, including during any period during which the Leasehold Mortgagee has possession of the Premises the obligation to operate and maintain the Project and Premises in accordance with the standards set forth in this Lease.

(iv) Termination: New Lease. In the event that this Lease is terminated by Landlord for any reason under the terms of this Lease or on account of a bankruptcy by or against Tenant, Landlord shall serve notice to the Leasehold Mortgagee that the Lease has been terminated. The notice shall include a statement of any and all sums which would at the time be

due under this Lease but for such termination and of all other defaults under this Lease. Every Leasehold Mortgagee shall thereupon have an option, which must be exercised within forty-five (45) days after the notice, to obtain a new lease ("New Lease") in accordance with and upon the following terms and conditions:

(A) The New Lease shall be effective as of the date of termination of this Lease, and shall be, for the remainder of the Term of this Lease, at a rent and fee and upon all of the original agreements, terms, covenants and conditions. Such New Lease shall require the tenant to remedy any default of the Tenant under this Lease which can be remedied by Leasehold Mortgagee and to the extent set forth in the notice delivered under Subsection (iv) above. Such New Lease shall be subject to all existing subleases.

(B) Upon the execution of the New Lease, the lessee therein named shall pay any and all sums which would at the time of the execution thereof be due under this Lease but for termination and shall pay all expenses, including reasonable attorneys' fees, court costs and disbursements, incurred by Landlord in connection with any default and termination, the recovery of possession of the Premises, and the preparation, execution and delivery of the New Lease.

(C) If Tenant refuses to surrender possession of the Premises, Landlord shall, at the request of the Leasehold Mortgagee, institute and pursue diligently to conclusion the appropriate legal remedy or remedies to oust or remove Tenant. Any such action taken by Landlord at the request of the Leasehold Mortgagee shall be at the Leasehold Mortgagee's sole expense.

(v) Subject to the provisions of this Section 17, the Leasehold Mortgagee may exercise, with respect to the Premises, any right, power, or remedy under the Leasehold Mortgage. Every Leasehold Mortgagee (or its designee) or any other purchasers in foreclosure proceedings may become the legal owners and holders of Tenant's interest in this Lease through such foreclosure proceedings or by assignment of this Lease in lieu of foreclosure and shall provide notice of such assignment and assumption to Landlord. A Leasehold Mortgagee after a foreclosure or assignment in lieu of foreclosure under the Leasehold Mortgage may subsequently assign the Leasehold Interest or the New Lease to a third party who shall assume the Lease and provide notice and a copy of the assumption to Landlord. Upon such assumption, the Leasehold Mortgagee shall be released from all liability for the performance or observance of the covenants and conditions in this Lease (or such New Lease) contained on Tenant's part to be performed and observed from and after the date of such assignment.

(vi) Notwithstanding Sections 17(c)(iv) and 17(c)(v), in the event that any person or entity other than Leasehold Mortgagee (a "Foreclosure Purchaser") shall acquire title to Tenant's interest in this Lease as a result of foreclosure or assignment in lieu of foreclosure under the Leasehold Mortgage, or under a New Lease pursuant to this Section 17, the Foreclosure Purchaser may not assign this Lease (or such New Lease) without the prior written consent of Landlord in compliance with the requirements of Section 14. If Landlord's consent is obtained, the assignee must assume Tenant's obligations under this Lease and an executed counterpart of such assumption must be delivered to Landlord. Upon such assumption, the Foreclosure Purchaser shall be released from all liability for the performance or observance of

the covenants and conditions in this Lease (or such New Lease) contained on Tenant's part to be performed and observed from and after the date of such assignment.

(vii) No agreement between Landlord and Tenant modifying, amending, canceling or surrendering this Lease shall be effective without the prior written consent of the Leasehold Mortgagee, which consent shall not be unreasonably withheld if such change has no adverse impact on the Leasehold Mortgagee.

(viii) If, in connection with any financing or refinancing of the Leasehold Interest hereunder by Tenant, any Leasehold Mortgagee requests any changes or additions to this Lease, Landlord and Tenant shall amend this Lease to include such changes or additions, provided that such changes or additions do not materially impair Landlord's rights hereunder, materially increase Landlord's obligations hereunder, or materially decrease the value of this Lease or of Landlord's reversionary interest hereunder.

(ix) Landlord hereby consents to, and agrees that any Leasehold Mortgage may contain provisions for any or all of, the following: (1) an assignment of Tenant's share of the net proceeds from available insurance coverage or from any award or other compensation resulting from a total or partial taking of the Premises by condemnation, in each case as determined in accordance with the terms of this Lease; (2) the entry by the Leasehold Mortgagee upon the Premises during business hours, without notice to Landlord or Tenant, to view the condition of the Premises; (3) a default by Tenant under this Lease being deemed to constitute a default under the Leasehold Mortgage; (4) an assignment of Tenant's right, if any, to terminate, cancel, modify, change, supplement, alter or amend this Lease, including without limitation Tenant's right under Section 365(h)(1) of the Federal Bankruptcy Code to elect to treat this Lease as terminated, and an assignment of all of Tenant's other rights under the Federal Bankruptcy Code; (5) an assignment of any sublease to which the Leasehold Mortgage is subordinated; and (6) the following rights and remedies to be available to the Leasehold Mortgagee upon any default under any Leasehold Mortgage, subject to compliance with all applicable terms and provisions of this Lease: (a) the foreclosure of the Leasehold Mortgage pursuant to a power of sale, by judicial proceedings or other lawful means and the transfer of the leasehold estate hereunder to the purchaser at the foreclosure sale, or the transfer to the Leasehold Mortgagee or its nominee or designee of the Leasehold Estate through assignment in lieu of foreclosure, and a subsequent sale or sublease of the leasehold estate hereunder by such purchaser if the purchaser is the Leasehold Mortgagee or its nominee or designee or by such transferee in connection with any assignment in lieu of foreclosure, (b) the appointment of a receiver, irrespective of whether the Leasehold Mortgagee accelerates the maturity of all indebtedness secured by the Leasehold Mortgage, (c) the right of the Leasehold Mortgagee or the receiver appointed under subsection (b) above to enter and take possession of the Premises, to manage and operate the same, to collect the subrentals, issues and profits therefrom and any other income generated by the Premises or the operation thereof and to cure any default under the Leasehold Mortgage or to cure any default by Tenant under this Lease, and (d) an assignment of Tenant's right, title and interest under this Lease in and to any deposit of cash, securities or other property which may be held to secure the performance of covenants, conditions and agreements contained in this Lease, in the premiums for or dividends upon any insurance provided for the benefit of any Leasehold Mortgagee or required by the terms of this Lease, as

well as in all refunds or rebates of taxes or assessments upon or other charges against the Premises, whether paid or to be paid

(x) A Standard Mortgagee Loss Payee Clause naming Leasehold Mortgagee may be added to any and all property insurance policies required to be carried by Tenant hereunder on condition that the insurance proceeds are to be applied to rebuilding in the manner specified in this Lease.

(xi) If title to Landlord's estate and to Tenant's estate shall be acquired by the same person, firm or entity, other than as a result of termination of this Lease, no merger shall occur, if the effect of such merger would extinguish or in any way impair the lien of any Leasehold Mortgage.

18. Surrender of Premises; Holding Over.

(a) Prior to the expiration or earlier termination of the Lease, Tenant shall be deemed to own the Improvements. Upon the expiration of the Term of this Lease or early termination of this Lease, Tenant shall surrender the Premises in accordance with the terms hereof in the condition required under this Lease, with the Improvements and any other alterations or additions thereto (and Tenant shall have no obligation to demolish or remove any Improvements), title to which shall automatically pass to Landlord, free of any right, title, interest or estate of Tenant therein, or its successors or assigns, without the necessity of executing any further instrument and without the necessity of any allowance, compensation, consideration or payment by Landlord therefor. Landlord agrees that all signs, trade fixtures, machinery, equipment, furniture and other personal property of whatever kind and nature kept or installed on the Premises by Tenant (collectively, the "Personal Property"), shall not be deemed to become a part of the Premises however attached to or incorporated into the Premises, and shall not become the property of Landlord and may be removed by Tenant in its discretion and expense at any time and from time to time during the Lease Term, subject to the other terms and conditions hereof. Tenant shall remove all of the Personal Property upon the expiration or earlier termination of this Lease, and shall repair any damage caused by such removal.

(b) Upon expiration or earlier termination of this Lease, Tenant shall execute and deliver to Landlord in a form suitable for recordation a quitclaim deed, quitclaiming all of Tenant's rights, title and interest in and to the Premises and, if applicable, the Improvements thereon, to Landlord.

(c) If Tenant holds over after the expiration or earlier termination of the Lease, Tenant shall become a tenant at sufferance only, upon the terms and conditions set forth in this Lease so far as applicable (including Tenant's obligation to pay monthly operating expense charges and any other additional rent under this Lease), but at a monthly Ground Rent equal to one hundred fifty percent (150%) of the monthly Ground Rent applicable immediately prior to the date of such expiration or earlier termination. Acceptance by Landlord of rent after such expiration or earlier termination shall not constitute a consent to a hold over hereunder or result in an extension of this Lease.

19. Estoppel Certificate. Each party agrees promptly following request by the other party, any prospective purchaser of the Premises, any current or prospective subtenant or other transferee under a Sublease, or the current or prospective holder of any deed of trust, mortgage, or other encumbrance with respect to the fee or leasehold interest of the Premises to execute and deliver an Estoppel Certificate to whichever of them has requested the same. The term "Estoppel Certificate" shall mean an estoppel certificate substantially in the form attached hereto as Exhibit "G" and Exhibit "J", certifying (a) that this Lease is unmodified and in full force and effect, or, if modified, stating the nature of such modification and certifying that this Lease, as so modified, is in full force and effect and the date to which the rent and other charges are paid in advance, if any, (b) that to 's such party's knowledge there are no uncured defaults on the part of Landlord and Tenant hereunder, or if there exist any uncured defaults on the part of Landlord and/or Tenant hereunder stating the nature of such uncured defaults on the part of Landlord and/or Tenant, and (c) the correctness of such other information relating to this Lease as may be reasonably required by the party hereto requesting execution of such Estoppel Certificate. Notwithstanding anything in Section 15 to the contrary, a party's failure to so execute and deliver an Estoppel Certificate within ten (10) business days following written request as required above shall, if such failure continues for five (5) business days after receipt of written notice of such failure, constitute an Event of Default by such party hereunder.

20. Indemnification, Release and Liens.

(a) Tenant expressly agrees that Landlord shall not be liable, responsible, or in any way accountable to Tenant, Tenant's agents, employees, servants, customers or invitees, or to any person whomever, for any loss, theft or destruction of or damage (including but not limited to any damage caused by rainstorm or other water damage) to the Premises, or to any goods, wares, merchandise, fixtures or other property stored, kept, maintained, or displayed in, on or about the Premises, nor for injury to or death of any person or persons who may at any time be using, occupying or visiting the Premises, regardless of the nature or cause of such injury, damage or destruction; provided, however, that the foregoing shall not relieve Landlord from any liability to the extent it has been determined to have arisen from Landlord's gross negligence or willful misconduct or Landlord's breach of its obligations hereunder.

(b) Tenant shall indemnify and hold Landlord harmless from and against any and all actions, claims, damages, losses, costs and expense (including reasonable attorney's fees), arising from or based upon Tenant's construction on or use of the Premises, the conduct of its business on the Premises, any activity, work or thing done, permitted or suffered by Tenant or its agents and employees in or about the Premises and/or any event or circumstance occurring or existing on, on or about the Premises. Tenant further indemnifies and holds Landlord harmless from and against any and all claims arising from any breach or default in the performance of any obligation on Tenant's part to be performed under the terms of this Lease, or arising from any act or negligence of Tenant, or any of its agents, contractors or employees, and from and against all costs, attorneys' fees, expenses and liabilities incurred in, or related to, any such claim or any action or proceeding brought thereon. In case any action or proceeding be brought against Landlord by a third party by reason of any such claim, Tenant, upon notice from Landlord, shall defend the same at Tenant's expense by counsel reasonably satisfactory to Landlord. Said indemnification obligation shall exclude any actions, claims, damage, cost or expense, including reasonable attorney's fees, to the extent it has been determined to have arisen from Landlord's

negligence or willful misconduct or Landlord's breach of its obligations hereunder, and Landlord shall indemnify and hold Tenant harmless from and against any such liability to the extent it has been determined to have arisen from Landlord's gross negligence or willful misconduct or Landlord's breach of its obligations hereunder. Notwithstanding anything to the contrary contained in this Section 20(b), Tenant's indemnification obligations shall be limited to actual damages and shall expressly exclude punitive damages, speculative damages, and damages for injury or damage to, or interference with, Landlord's business, including but not limited to, loss of profits, loss of rents or other revenues, loss of business opportunity, loss of goodwill or loss of use. The provisions of this Section 20(b) shall survive the expiration or earlier termination of this Lease for a period of one (1) year.

(c) Tenant shall keep the Premises and the Improvements located thereon, and all of the right, title and interest of Tenant and Landlord therein, free and clear of all liens or other monetary encumbrances, including but not limited to mechanics' liens, arising from any work performed on or materials supplied to the Premises by or on behalf of Tenant. Tenant shall have thirty (30) days following written notice from Landlord in which to discharge any such lien or other monetary encumbrance. In the event Tenant fails to do so, Landlord may, upon no less than ten (10) business days' prior written notice to Tenant, pay such lien or monetary encumbrance or claim, and on or before the thirtieth (30th) day following Tenant's receipt of an invoice for same, Tenant shall pay to Landlord such sums so paid, plus such reasonable costs and attorneys' fees as may have been incurred by Landlord; provided, however, that in the event Tenant in good faith disputes such lien or other monetary encumbrance and with reasonable promptness furnishes an indemnity bond or other undertaking in an amount sufficient either to procure the release of such lien or other monetary encumbrance or to indemnify against the principal amounts thereof, together with such costs or attorneys' fees as may be covered by said lien or other monetary encumbrance, then the furnishing of such bond or undertaking shall be deemed due compliance with the foregoing provision.

21. Subordination.

(a) This Lease shall in all respects be junior and subordinate to the FAA Section 163 Determination and all matters of record affecting the Premises as of the Effective Date and all of the provisions contained therein. In the event of any conflict between the terms hereof and any of the foregoing, the provisions of the foregoing shall prevail.

(b) Landlord represents and warrants that as of the Effective Date and the recordation of the Memorandum of Lease (as defined below), there is no Mortgage encumbering the Premises. In the event Landlord desires to place a Mortgage on the fee interest in the Premises following the Effective Date, then Landlord shall give Tenant and any Leasehold Mortgagee at least thirty (30) days prior written notice of such Mortgage. In the event a Mortgage is placed on the fee interest in the Premises following the Effective Date and recordation of the Memorandum of Lease, Tenant covenants and agrees that upon written request of Landlord, Tenant will make, execute, acknowledge and deliver the form attached hereto as Exhibit "H" (an "SNDA") to effect the subordination of this Lease to such Mortgage on the fee interest; provided, however, that as a condition to Tenant's obligations to execute, acknowledge and deliver the SNDA, same shall provide that, in the event the Mortgagee acquires Landlord's interest hereunder, this Lease will continue in full force and effect in the same manner and with

like effect as if the Mortgagee had been named as Landlord herein, and Tenant will attorn directly to the Mortgagee, and the Mortgagee shall recognize the interest of Tenant under this Lease. Notwithstanding anything in Section 15 to the contrary, Tenant's failure to so execute and deliver an SNDA within ten (10) business days following written request as required above shall, if such failure continues for five (5) business days after receipt of written notice of such failure, constitute an Event of Default hereunder. However, if Landlord or any such Mortgagee so elects, this Lease shall be deemed prior in lien to the Mortgage regardless of such subordination, and Tenant will execute a commercially reasonable statement in writing to such effect at Landlord's or such Mortgagee's request within twenty (20) days after written notice requesting the execution thereof.

22. Attorneys' Fees.

If any action shall be instituted by either Landlord or Tenant for the enforcement or interpretation of any of its rights or remedies in or under this Lease, the prevailing party shall be entitled to recover from the losing party all costs incurred by the prevailing party in said action and any appeal therefrom, including reasonable attorneys' fees and court costs to be fixed by the court therein.

23. Notices.

All notices, requests, demands, and other communications required or permitted under this Lease shall be in writing and shall be (as elected by the person giving such notice) (i) hand delivered by messenger or courier service or (ii) sent by overnight delivery (including Federal Express), addressed as follows:

Landlord:	Ontario International Airport Authority 1923 E. Avion Street Ontario, CA 91761 Attention: Chief Executive Officer
With a copy to:	Lori D. Ballance, Esq. (Authority General Counsel) Gatzke Dillon & Ballance 2762 Gateway Road Carlsbad, CA 92009
Tenant:	CanAm Ontario, LLC c/o US RE Company, LLC 9830 Colonnade Blvd., Suite 600 San Antonio, Texas 78230-2239 Attention: Lange Allen, Director US Industrial
With a copy to:	US RE Company, LLC 9830 Colonnade Blvd., Suite 600 San Antonio, Texas 78230-2239 Attention: Lange Allen, Director US Industrial

and a copy to: Allen Matkins Leck Gamble Mallory & Natsis LLP
1900 Main Street, Fifth Floor
Irvine, CA 92614
Attention: Gary S. McKitterick, Esq.

Each notice shall be deemed delivered (1) on the date delivered if by personal delivery, or (2) on the date of delivery by the overnight delivery service if by overnight delivery. By giving to the other parties at least fifteen (15) days' written notice in accordance with this Section 23, the parties to this Lease and their respective successors and assigns shall have the right from time to time and at any time during the Term of this Lease to change their respective addresses and each shall have the right to specify as its address any other address.

24. Hazardous Materials.

(a) Tenant shall at all times and in all respects comply with all Environmental Laws (as defined below) relating to industrial hygiene, environmental protection and the use, analysis, generation, emission, manufacture, storage, disposal or transportation of any Hazardous Materials. Notwithstanding any other term in this Lease, Tenant shall not at any time during the term of this Lease or any extension thereof, use, store, spill, release, expose, manufacture, or bring on to the Premises any Hazardous Materials other than in strict compliance with all Environmental Laws. Notwithstanding the foregoing, Tenant and any subtenants may use customary quantities of standard janitorial and office products and such products as are incorporated into the functioning of building systems.

(b) Tenant acknowledges and agrees that, except as expressly set forth in this Lease, Landlord makes no representations or warranties of any kind regarding the existence or non-existence of Hazardous Materials in, on, under or about the Premises, and that Landlord will have no responsibility, liability or obligation to Tenant if any such Hazardous Materials exist or are discovered during the Term of the Lease, unless caused by the gross negligence or willful misconduct of Landlord or any Landlord Indemnitees. Accordingly, if the presence of any Hazardous Materials in, on, under or about the Premises are first introduced by Tenant or any of its subtenants or licensees, or any of its or their contractors, agents or employees (collectively, the "Tenant Parties") on or after the Delivery Date, and such Hazardous Materials are in violation of any Environmental Law, Tenant shall promptly take all actions at its sole expense as are necessary to return the Premises to compliance with all Environmental Laws. Landlord acknowledges and agrees that, except as expressly set forth in this Lease, Tenant will have no responsibility, liability or obligation to Landlord with respect to any Hazardous Materials (i) in, on, under or about the Premises that are first introduced prior to the Delivery Date, (ii) that are the result of the migration of Hazardous Materials (to the extent Tenant is not responsible for such migration pursuant to Section 24(c)(2) below), or (iii) that are caused by the gross negligence or willful misconduct of Landlord or any Landlord Indemnitees. Notwithstanding the foregoing, if (1) the presence of any Hazardous Materials within the soil of the Premises are first introduced prior to the Delivery Date (Tenant shall submit reasonable evidence of the date such Hazardous Materials were first introduced), or are the result of the migration of Hazardous Materials (to the extent Tenant is not responsible for such migration pursuant to Section 24(c)(2) below) (collectively, the "Soil Contamination"), (2) the Soil Contamination is not caused by the negligence or willful misconduct of Landlord or any Landlord Indemnitees following the

Delivery Date, (3) the Soil Contamination is in violation of any Environmental Law, and (4) the Soil Contamination must be addressed in connection with and as part of Tenant's construction of the Project, then Tenant shall promptly take all actions with respect to the Soil Contamination at its sole expense as are required pursuant to Environmental Laws but only to the extent necessary to construct the Project. Notwithstanding the foregoing, Tenant shall not take any remedial action in response to the presence of any Hazardous Materials in, on, under or about the Premises, nor enter into any settlement agreement, consent decree or other compromise with respect to any claims relating to any Hazardous Materials in any way connected with the Premises, without first notifying Landlord of Tenant's intention to do so and affording Landlord ample opportunity to appear, intervene or otherwise appropriately assert and protect Landlord's interest with respect thereto. Landlord's prior written approval of all such remedial actions and the contractors to be used by Tenant in connection with same shall first be obtained, which approval shall not be unreasonably withheld, so long as such actions would not potentially have any material adverse long-term or short-term effect on the Premises. If Tenant fails to properly take any corrective actions as required herein, Landlord may provide Tenant with notice of such failure, and if Tenant fails to take such corrective actions within thirty (30) days following receipt of Landlord's notice, then Landlord may submit such matter to JAMS arbitration pursuant to Streamlined Arbitration, with a concurrent copy to be sent to Tenant. The prevailing party in any such Streamlined Arbitration shall be entitled to an award (through such Streamlined Arbitration) for recovery of all reasonable attorneys' fees, expenses and costs of such arbitration. The arbitration shall be binding upon Tenant and Landlord. In connection with any such Streamlined Arbitration, Tenant and Landlord each hereby agree to expedite the discovery, adjudication and decision process, and shall each cooperate with one another and the JAMS arbitrator to establish and agree upon an expedited timeline for the completion of the same. Any arbitrator selected by the parties shall be knowledgeable in Environmental Laws.

(c) Tenant will hold harmless, indemnify, and protect, defend and Landlord, Landlord's members and commissioners (i.e., the members of the joint powers authority) and their employees, the Landlord Commission, and members of the Commission, its employees and the Landlord's directors, officers, employees, agents, successors, and assigns, and authorized volunteers (collectively, "Landlord Indemnitees") from and against any claims (including third party claims whether for bodily injury or real or personal property damage or otherwise), actions, administrative proceedings (including informal proceedings), judgments, actual damages, penalties, fines, costs, response costs, assessments, liabilities (including sums paid in settlement of claims), interest or losses (including reasonable attorneys' fees and expenses ((including such fees and expenses incurred in enforcing this Lease))), reasonable consultant fees, and reasonable expert fees) that may be asserted against or sustained by any of the foregoing indemnitees by reason of, or in connection with, (1) the release, threatened release, spill, leak, emission, escape, leach, disposal or discharge by Tenant or any of its employees, agents, contractors or other invitees of any Hazardous Materials into the air, soil, groundwater or surface water first occurring at, on, about, under or within any part of the Premises on or after the Delivery Date, or first occurring elsewhere in connection with Tenant's transportation of Hazardous Materials to or from the Premises on or after the Delivery Date, or (2) the migration of Hazardous Materials, the presence of which is attributable to a release, threatened release, spill, leak, emission, escape, leach, disposal or discharge by Tenant or any of its employees, agents, contractors or other invitees of any Hazardous Materials into the air, soil, groundwater or surface water first occurring at, on, about, near, under or within any part of the Premises on or after the Delivery

Date, or first occurring elsewhere in connection with Tenant's transportation of Hazardous Materials to or from the Premises on or after the Delivery Date. The indemnification provided herein shall specifically cover costs (including capital, operating and maintenance costs) and response costs incurred in connection with any investigation or monitoring of site conditions, any cleanup, containment, remediation, removal or restoration work required or performed by any federal, state, local, municipal or foreign government or agency thereof (each, a "Governmental Authority") or performed by any other person or entity in response to an order or other requirement by such Governmental Authority and for which Tenant has responsibility under this Section 24(c); provided, however, that such indemnification obligation shall exclude punitive damages, speculative damages, and damages for injury or damage to, or interference with, Landlord's business, including but not limited to, loss of profits, loss of rents or other revenues, loss of business opportunity, loss of goodwill or loss of use. Tenant's obligation to defend, indemnify, and hold harmless Landlord and the other Landlord Indemnitees set forth in this Section 24(c) shall survive the expiration of the Term and the termination of Tenant's occupancy, in whole or in part, of the Premises with respect to claims, actions, administrative proceedings, judgments, actual damages, penalties, fines, costs, response costs, assessments, liabilities, interest or losses (including reasonable attorneys' fees and expenses, reasonable consultant fees, and reasonable expert fees) arising from, or in connection with, releases, threatened releases, spills, leaks, emissions, escapes, leaching, disposals or discharges occurring on or after the Delivery Date and prior to the expiration of Term or the earlier termination of Tenant's occupancy of the Premises and for which Tenant is expressly responsible pursuant to the provisions of this Section 24.

(d) Tenant shall immediately notify Landlord in writing of: (i) any enforcement, cleanup, removal or other governmental or regulatory action instituted, completed or threatened pursuant to any Environmental Laws; (ii) any claim made or threatened by any person against Tenant, and/or the Premises, relating to damage, contribution, cost recovery compensation, loss or injury resulting from or claimed to result from any Hazardous Materials; and (iii) any reports made to any environmental agency arising out of or in connection with any Hazardous Materials in, emanating from, or removed from the Premises, including any complaints, notices, warnings or asserted violations in connection therewith. Tenant shall also provide to Landlord as promptly as possible, and in any event within five (5) business days after Tenant first receives or sends the same, with copies of all claims, reports, complaints, notices, citations, reports, warnings or asserted violations relating in any way to the Premises, or Tenant's use thereof, involving failure by Tenant or the Premises to comply with any Environmental Law. Tenant shall promptly deliver to Landlord copies of hazardous waste manifests reflecting the legal and proper disposal of all Hazardous Materials removed from the Premises, provided that Landlord will remain responsible to execute any manifests required for the disposal of any Soil Contamination.

(e) Tenant shall, within five (5) business days after receipt of Landlord's written request, provide Landlord with copies of all documents and information, including, but not limited to, permits, registrations, manifests, applications, reports and certificates, evidencing Tenant's compliance with any Environmental Law specified by Landlord. Landlord and its authorized representatives and consultants shall have the right to, but not the obligation, to enter the Premises at any reasonable time to confirm Tenant's compliance with the provisions of this Section 24 and to review all permits, reports, plans and other documents regarding the use,

handling, storage or disposal of Hazardous Material or compliance with Environmental Laws. Prior to the expiration or earlier termination of the Term of the Lease, Tenant shall cause all Hazardous Materials caused by Tenant to be removed from the Premises and transported for use, storage or disposal in accordance and compliance with all applicable Environmental Laws and in accordance with the requirements of this Lease.

(f) As used herein, the term "Hazardous Material" means any oil, flammable explosive, asbestos, urea, formaldehyde, radioactive material, vapor, solvent, or waste, contaminated or polluting materials, hazardous or toxic substance, material, or waste which is or becomes regulated by any local governmental authority, the State of California or the United States Government. The term "Hazardous Material" includes, without limitation, any material or substance which is (i) defined as "hazardous waste", "extremely hazardous waste", or "restricted hazardous waste", under Sections 25115, 25117 or 15122.7, or listed pursuant to Section 25140, of the California Health and Safety Code, Division 20, Chapter 6.5 (Hazardous Waste Control Law), (ii) defined as a "Hazardous substance" under Section 25316 of the California Health and Safety Code, Division 20, Chapter 6.8 (Carpenter- Presley-Tanner Hazardous Substance Account Act), (iii) defined as a "Hazardous material", "Hazardous substance", or "Hazardous waste" under Section 25501 of the California Health and Safety Code, Division 20, Chapter 6.95 (Hazardous Materials Release Response Plans and Inventory), (iv) defined as a "Hazardous substance" under Section 25281 of the California Health and Safety Code, Division 20, Chapter 6.7 (Underground Storage of Hazardous Substances), (v) petroleum, (vi) asbestos, (vii) listed under Article 9 or defined as hazardous or extremely hazardous pursuant to Article 11 of Title 22 of the California Administrative Code, Division 4, Chapter 20, (viii) designated as a "hazardous substance" pursuant to Section 311 of the Federal Water Pollution Control Act (33 U.S.C. Section 1317), (ix) defined as a "hazardous waste" pursuant to Section 1004 of the Federal Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq. (42 U.S.C. Section 6903), or (x) defined as a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. Section 9601 et seq. (42 U.S.C. Section 9601).

(g) As used herein, the term "Environmental Laws" means any applicable federal, state or local laws, ordinances, or regulations relating to any Hazardous Material affecting the Premises, whether in effect as of the date hereof or hereinafter enacted including, without limitation, Proposition 65 of the State of California, California Assembly Bill 3713 and the laws, ordinances, and regulations referred to above.

(h) Tenant's environmental obligations herein shall survive the expiration or earlier termination of this Lease.

25. Brokers. Each party represents that it has not had contact with any broker with respect to this Lease except CBRE ("Landlord's Broker") . Landlord will pay a commission to Landlord's Broker in connection with this Lease in accordance with a separate agreement between Landlord and Landlord's Br. Subject to the foregoing, each party hereto shall indemnify and hold harmless the other party hereto from and against any and all losses, damages, liabilities, losses, costs and expenses (including, but not limited to, reasonable attorneys' fees and related costs) resulting from any claims that may be asserted against such other party by any

real estate broker, finder or intermediary arising from any act of the indemnifying party in connection with this Lease.

26. Title Insurance.

(a) Title Insurance.

(i) Approval of Title. Prior to execution of this Lease, the parties hereto have obtained a title commitment issued by First American Title Company (the "Title Company") [dated _____, as Order No. _____] (herein the "Title Commitment") for the Premises together with copies of all instruments listed as exceptions therein. Tenant hereby approves all of the exceptions to title set forth in the Title Commitment (the "Commitment Title Exceptions"). As used in this Lease, the term "Approved Title Exceptions" shall mean (i) the Title Commitment Exceptions, (ii) exceptions existing as of the date of the Title Commitment but not included in the Commitment Title Exceptions, and (iii) exceptions to title created or caused by Tenant or agreed to in writing by Tenant, and (iv) exceptions in the nature of easements granted to governmental agencies or quasi-governmental agencies for the purpose of providing utilities or drainage to the Premises or abutting properties and the locations of such utilities have been approved in advance in writing by Tenant (such approval not to be unreasonably withheld) and do not unreasonably interfere with use or development of the Premises. Tenant shall not be entitled to encumber with a monetary lien any portion of the Premises, provided however, Tenant may create such encumbrances on its Leasehold Interest in the Premises, subject to the terms of Section 17 above.

(ii) Title Policy. This Lease shall be conditioned on the Title Company being prepared to issue a policy of title insurance insuring Tenant's Leasehold Interest in the Premises, subject only to the Approved Title Exceptions. The costs for such policy of title insurance shall be paid for by Tenant.

27. Separate Project Ground Leases.

(a) Subject to the terms of this Section 27, after completion of the core and shell of a building and upon written request of Tenant, accompanied by a separate legal description and survey of the portion of the Premises upon which an individual building, parking and related improvements are located, Landlord agrees to enter into a separate ground lease (each, a "Project Ground Lease") with respect to the portion of the Premises upon which such building, parking and related improvements are situated; provided that no more than a total aggregate of ten (10) separate Project Ground Leases may be requested by Tenant for execution by Landlord. The form and terms and conditions of each Project Ground Lease shall be same form and terms and conditions as set forth in this Lease (with such changes necessary for such lease to apply to a single parcel), except (i) to the extent same must be modified to reflect that the Project Ground Lease covers only a portion of the Premises (e.g. methodology for Ground Rent allocation shall be based on the square footage of land), (ii) the provisions of Section 26 shall not apply to any such Project Ground Lease, (iii) the rights and benefits under Section 28 shall not be included in a Project Ground Lease shall be retained by Tenant, and (iv) no separate Completion Guaranty or Lease Guaranty shall be required in connection with a Project Ground Lease. Pursuant to Section 9(b), the Completion Guaranty from Tenant shall remain in place until

Substantial Completion of the Initial Improvements and such Completion Guaranty shall not be impacted by a Project Ground Lease. Upon execution of a Project Ground Lease, the premises under such Project Ground Lease shall be removed from the Premises under this Lease and this Lease shall no longer apply to such premises (and, once separate Project Ground Leases covering all of the Premises have been executed, this Lease shall thereafter automatically terminate). All individual Ground Leases shall be independent and not cross defaulted. As a condition to execution of the first Project Ground Lease, Tenant will first have created covenants, conditions and restrictions (“CC&R’s”) to implement governance between lots for maintenance, repair of common area and infrastructure. Tenant will agree to pay Landlord for all its reasonable legal fees incurred by Landlord in connection with the execution of the Project Ground Leases.

(b) Except as set forth in Sections 14(a) and 14(b) and subject to Landlord’s written consent pursuant to Section 14(c), which Landlord consent must be provided before execution of a Project Ground Lease in which an assignment is requested, Tenant shall be entitled to assign the Project Ground Leases to third parties and thereafter Landlord shall look solely to such assignee for Tenant’s performance under that Project Ground Lease and the Lease Guaranty shall be released as to such portion of the Premises covered by the Project Ground Lease.

(c) Tenant may at any time request a Project Ground Lease for an Affiliate of Tenant without constituting an assignment of the Lease, in which case Tenant shall remain liable under the Lease and the Guarantor shall remain liable under the Lease subject to the terms of Exhibit “D”.

28. Landlord Notice of Sale of Premises.

If at any time during the term of the DEA, during the Pre-Term Period or during the Term of the Lease Landlord desires to market its fee interest in all or any portion of the Premises for sale or in connection with any proposed transfer, conveyance, joint venture, ground lease or any other transfer of its interest in the Premises, any portion thereof, any ownership interest therein, or any revenue generated thereby (collectively a “Transaction”), Landlord shall first notify Tenant in writing. Within sixty (60) days after such written notice, Tenant may, at its election, deliver to Landlord a written offer sheet setting forth the offer terms of the Transaction. Landlord’s timely consideration of, and negotiation relating to, such offer would be subject to any applicable federal, state and local laws regarding possible competitive bidding or auction, determination of fair market value, and other similar processes relating to a potential sale or disposition of the Premises, which process(es) may include parties in addition to Tenant.

29. Miscellaneous.

(a) Access. Subject to Landlord’s agreement to (i) use reasonable efforts to minimize any disturbance of Tenant’s or any other subtenant or occupant’s use of the Premises, (ii) promptly repair any damage caused to the Premises and/or the Improvements by such entry and (iii) comply with Tenant’s reasonable security requirements including the right of Tenant to accompany Landlord while upon the Premises except in the case of emergency, Landlord and its agents shall have reasonable access to the Premises (“Landlord’s Access”), at Landlord’s sole cost and expense, during Tenant’s business hours and after at least ten (10) business days’ prior

notice (which notice shall include Landlord's planned activities and the estimated duration thereof) (except that in an emergency only such notice as is practicable shall be required) for the purposes of inspecting, testing and examining the same and to ascertain if Tenant is in compliance with the terms of this Lease, to perform any repairs or maintenance by Landlord required or permitted hereunder (although no obligation to make such repairs or maintenance shall be implied by the foregoing if not otherwise required by the terms of this Lease), to exhibit the same to prospective purchasers, lender and/or tenants, and for such other purposes as may be necessary or proper for the reasonable protection of Landlord's interests hereunder. Notwithstanding anything to the contrary contained in this Lease, in connection with Landlord's Access, (a) Tenant shall have the right to be present during Landlord's Access, (b) Landlord's Access shall be made in accordance with all applicable laws and any reasonable access procedures that may be adopted by Tenant or any subtenants at the Premises, (c) Landlord and its agents shall have obtained, and shall have provided to Tenant evidence of commercially general liability insurance with limits of not less than \$2,000,000 per occurrence and in the aggregate, naming Tenant, and any other person or entity reasonably designated by Tenant, as an additional insured. Landlord hereby agrees to indemnify, defend and hold harmless Tenant from and against any and all Claims to the extent arising out of Landlord's Access; provided, however, that Tenant's right to pursue Landlord for any claims shall be limited to actual damages and shall expressly exclude punitive damages, speculative damages, and damages for injury or damage to, or interference with, Tenant's business, including but not limited to, loss of profits, loss of rents or other revenues, loss of business opportunity, loss of goodwill or loss of use.

(b) Severability. The unenforceability or invalidity of any one or more provisions hereof shall not render any other provisions herein contained unenforceable or invalid.

(c) Gender and Number. As used in this Lease and whenever required by the context thereof, each number, both singular or plural, shall include all numbers, and each gender shall include all genders. "Landlord" and "Tenant" as used in this Lease or in any other instrument referred to in or made a part of this Lease shall likewise include both the singular and the plural, a corporation, co-partnership, individual or person acting in any fiduciary capacity as executor, administrator, trustee, or in any other representative capacity.

(d) Binding Upon Successors. Subject to the terms of Section 14 and 17 above, all of the terms hereof shall apply to, run in favor of and shall be binding upon and inure to the benefit of, as the case may require, the parties hereto, and also their respective heirs, executors, administrators, personal representatives and assigns and successors in interest.

(e) Waivers. One or more waivers of any covenant, term or condition of this Lease by either party shall not be construed by the other party as a waiver of a subsequent breach of the same or any other covenant, term or condition. The consent or approval of either party to or of any act by the other party of a nature requiring consent or approval shall not be deemed to waive or render unnecessary consent to or approval of any subsequent act.

(f) Association. Nothing contained in this Lease shall be deemed or construed by the parties hereto or by any third party to create the relationship of principal and agent, or of partnership, or of joint venture, or of any association whatsoever between Landlord

and Tenant, it being expressly understood and agreed that neither the method of computation of rent nor any other provisions contained in this Lease nor any act or acts of the parties hereto shall be deemed to create any relationship between Landlord and Tenant other than the relationship of Landlord and Tenant.

(g) Governing Law. The laws of the State of California shall govern the validity, construction, performance and enforcement of this Lease.

(h) Prior Agreements. It is understood that there are no oral agreements between the parties affecting this Lease and this Lease supersedes and cancels any and all previous negotiations, arrangements, brochures, agreements, representations and understandings, if any, between the parties hereto or displayed by Landlord to Tenant with respect to the subject matter thereof and none thereof shall be used to interpret or construe this Lease.

(i) Headings. The Section headings herein are for convenience only and do not define, limit or construe the contents of such Sections.

(j) Memorandum of Lease. Concurrently with the execution of this Lease, the parties shall sign, acknowledge and deliver to the Title Company for recordation, a Memorandum of Lease ("Memorandum of Lease") in the form of Exhibit "I" attached hereto (which includes, without limitation, that in the event of any inconsistencies between this Lease and the Memorandum of Lease, this Lease shall control). Landlord and Tenant hereby irrevocably and unconditionally authorize the Title Company, without the necessity of any further instruction or authorization, to record the Memorandum of Lease upon delivery to the Title Company. Tenant shall pay the cost of recording the Memorandum and any documentary transfer tax payable in connection with this Lease and/or the Memorandum.

(k) Time of the Essence. Time is of the essence for the performance of each covenant and term of this Lease

(l) No Representations: As-Is Condition. Tenant acknowledges that except as expressly provided in this Lease, neither Landlord nor any agent of Landlord has made any representation or warranty with respect to the Premises, or with respect to the suitability or fitness of the Premises for the conduct of Tenant's business or for any other purpose. The Premises is leased to Tenant, "as is, where is," without warranty or representation of Landlord of any kind, express or implied, except as expressly set forth in this Lease. The completion of the Inspection Period and Tenant's delivery of an Approval Notice in writing conclusively establishes that Tenant accepts the Premises in its "as is, where is" condition, except as expressly set forth in this Lease.

(m) Financial Statements. Upon ten (10) business days' prior written request from Landlord (which Landlord may make at any time during the Term but no more often than once in any calendar year), Tenant shall deliver to Landlord a current financial statement of Tenant. Such statements shall be prepared in accordance with generally acceptable accounting principles and certified as true in all material respects by Tenant (if Tenant is an individual) or by an authorized officer, member or general partner of Tenant (if Tenant is a corporation, limited liability company or partnership, respectively).

(n) Intentionally Deleted

(o) Force Majeure Delays. In the event that either party hereto is delayed or hindered in or prevented from the performance of any act required hereunder by reason of strikes, lock-outs, labor troubles, pandemics or governmental requirements related to a pandemic like COVID-19, inability or delay in procuring materials because of supply chain delays, failure of power, governmental moratorium, injunction or court order, riots, insurrection, war, fire, earthquake, flood or other natural disaster or other reason beyond the reasonable control of the party delayed in performing work or doing acts required under the terms of this Lease (but excluding delays due to financial inability) (herein collectively, "Force Majeure Delays"), then performance of such act shall be excused for the period of the delay and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay. The provisions of this Section shall not apply to nor operate to excuse Tenant from the payment of any rent in accordance with the terms of this Lease nor extend the date for payment of same.

(p) Guaranty. As a condition to the Lease for Landlord's benefit, ("Guarantor") shall, concurrently with the mutual execution of this Lease, execute and deliver to Landlord a Guaranty of the Lease in the form attached as Exhibit "D" hereto ("Lease Guaranty").

(q) Counterparts. This Lease may be executed in any number of counterparts and each counterpart shall be deemed to be an original document. All executed counterparts together shall constitute one and the same document and any counterpart signature pages may be detached and assembled to form a single original document. A pdf copy of a counterpart signature page shall be considered the equivalent of an ink original for all purposes.

30. Representations and Warranties by Landlord.

(a) Formation; Authority. Landlord is duly formed, validly existing, and in good standing under laws of the State of California. Landlord has full power and authority to enter into this Lease and to perform its obligations under this Lease. The execution, delivery and performance of this Lease by Landlord have been duly and validly authorized by all necessary action on the part of Landlord and all required consents and approvals have been duly obtained. All requisite action has been taken by Landlord in connection with the entering into of this Lease and the instruments referenced herein and the consummation of the transactions contemplated hereby. The individual(s) executing this Lease and the instruments referenced herein on behalf of Landlord have the legal power, right and actual authority to bind Landlord to the terms and conditions hereof and thereof.

(b) Property Agreements. Other than the agreements identified on Schedule 30(b) attached hereto (the "Property Agreements") and the Title Commitment Exceptions, Landlord is not a party to any contracts, options or agreements related to the Premises. The Property Agreements are in full force and effect, and no party is in default under any Property Agreements. Landlord has delivered true, correct and complete copies of the Property Agreements to Tenant. No party has any right or option to lease or purchase all or any portion of the Premises, other than Tenant pursuant to this Lease.

(c) Code Compliance. To Landlord's knowledge, there is no condition existing on the Premises that violates any law or regulations applicable to the Premises.

(d) Litigation. To Landlord's knowledge, there is no litigation, arbitration or other legal or administrative suit, action, proceeding or investigation of any kind threatened or pending against or involving Landlord relating to the Premises or any part thereof, including, but not limited to, any condemnation action relating to the Premises or any part thereof.

(e) Hazardous Substances. To Landlord's knowledge, (i) there is no violation of Environmental Laws with respect to the Premises, and (ii) there is no environmental claim threatened or pending with regard to the Premises.

31. Representations and Warranties by Tenant.

(a) Formation: Authority. Tenant is duly formed, validly existing, and in good standing under laws of the state of its formation, and is qualified to do business in California. Tenant has full power and authority to enter into this Lease and to perform this Lease. The execution, delivery and performance of this Lease by Tenant have been duly and validly authorized by all necessary action on the part of Tenant and all required consents and approvals have been duly obtained. All requisite action has been taken by Tenant in connection with the entering into of this Lease and the instruments referenced herein and the consummation of the transactions contemplated hereby. The individual(s) executing this Lease and the instruments referenced herein on behalf of Tenant have the legal power, right and actual authority to bind Tenant to the terms and conditions hereof and thereof.

[signatures on following page]

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

“LANDLORD”:

ONTARIO INTERNATIONAL AIRPORT
AUTHORITY, a joint powers authority

By: _____

Name: _____

Title: _____

By: _____

Name: _____

Title: _____

“TENANT”:

CanAm Ontario, LLC,
a Delaware limited liability company

By: _____

Name: _____

Title: _____

By: _____

Name: _____

Title: _____

SCHEDULE 4(a)

GROUND RENT

Schedule 4 (a)"- Ground Rent Schedule

Schedule 4 (a)- Ground Rent

11/26/2021

California Logistics Center, Ontario

Total Acres	Total Rentable Land (Net)	197.846
Total Land Area SF		8,618,259

Ground Rent Escalations (applies every 5 years)			Total Annual Rent	Annual Land Rent/ PSF
Initial	2024-2028	increase	\$ 25,079,133	\$ 2.91
1st Adjust	2029	17.50%	\$ 29,467,982	\$ 3.42
2nd	2034	17.50%	\$ 34,624,878	\$ 4.02
3rd	2039	17.50%	\$ 40,684,232	\$ 4.72
4th	2044	15%	\$ 46,786,867	\$ 5.43
5th	2049	15%	\$ 53,804,897	\$ 6.24
6th	2054	15%	\$ 61,875,632	\$ 7.18
7th	2059	10%	\$ 68,063,195	\$ 7.90
8th	2064	10%	\$ 74,869,514	\$ 8.69
9th	2069	10%	\$ 82,356,466	\$ 9.56
10th	2074	10%	\$ 90,592,112	\$ 10.51

Note: Landlord and Tenant mutually agree that they will enter into a lease amendment at a later date to clarify specific rental adjustment dates and the specific NNN annual and monthly rent to avoid any ambiguity about specific details of the rental stream associated with this Ground Lease, including the fixed agreed upon acreage.

SCHEDULE 30(b)

PROPERTY AGREEMENTS

EXHIBIT "A-1"

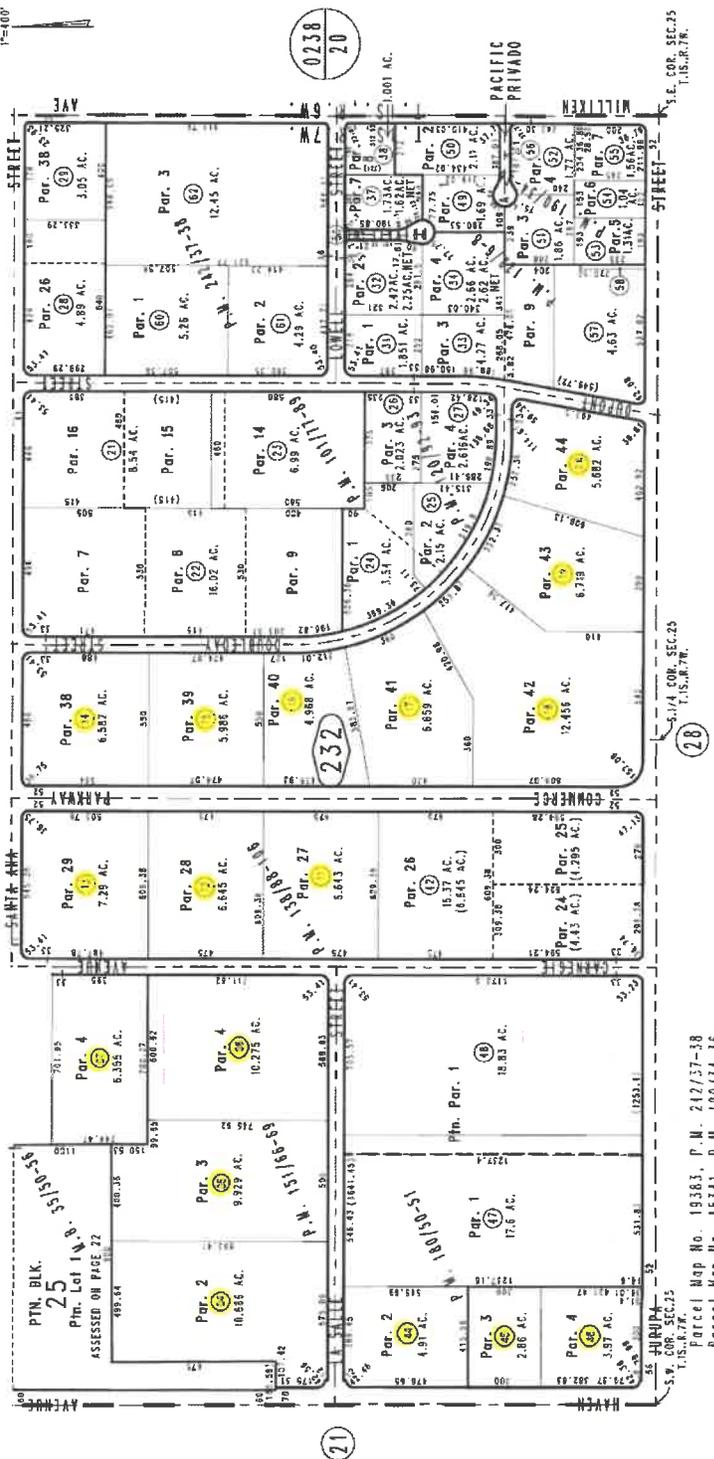
DEPICTION OF THE PREMISES
(SEE ATTACHED)

City of Ontario
Tax Rate Area
4008 0211 - 23

Ptn. Tract No. 2244, M.B. 35/50-56

SUBJECT PREMISES

THIS MAP IS FOR THE PURPOSE
OF AD VALOREM TAXATION ONLY.



REVISED
07/30/14 OR

Assessor's Map
Book 0211 Page 23
San Bernardino County

- Parcel Map No. 19363, P.M. 242737-38
- Parcel Map No. 15341, P.M. 190734-36
- Parcel Map No. 14732, P.M. 180750-51
- Parcel Map No. 13141, P.M. 151766-69
- Ptn. Parcel Map No. 10112, P.M. 138788-106
- Parcel Map No. 10340, P.M. 12216-8
- Parcel Map No. 10486, P.M. 120792-93
- Ptn. Parcel Map No. 8776, P.M. 101777-89

October 2004

EXHIBIT "A-2"

LEGAL DESCRIPTION OF THE PREMISES

PARCELS 27 THROUGH 32, 36 THROUGH 44 OF PARCEL MAP NO. 10112, IN THE CITY OF ONTARIO, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 138, PAGES 88 THROUGH 106, INCLUSIVE, OF PARCEL MAPS, RECORDS OF SAID COUNTY, AND AMENDED BY CERTIFICATE OF CORRECTION RECORDED MARCH 06, 1991, AS INSTRUMENT NO. 91-077511, OF OFFICIAL RECORDS.

ASSESSOR PARCEL NUMBERS:

*0211-222-47, 0211-222-48, 0211-222-52, 0211-222-53, 0211-222-54,
0211-232-11, 0211-232-12, 0211-232-13, 0211-232-14, 0211-232-15, 0211-232-16, 0211-232-17,
0211-232-18, 0211-232-19, 0211-232-20.*

PARCELS 2, 3, AND 4, OF PARCEL MAP NO. 10112, IN THE CITY OF ONTARIO, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 138, PAGES 88 THROUGH 106, INCLUSIVE, OF PARCEL MAPS, RECORDS OF SAID COUNTY, AND AMENDED BY CERTIFICATE OF CORRECTION RECORDED MARCH 06, 1991, AS INSTRUMENT NO. 91-077511, OF OFFICIAL RECORDS.

PARCELS 2, 3 AND 4 OF PARCEL MAP NO. 14732, IN THE CITY OF ONTARIO, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 180, PAGES 50 AND 51, INCLUSIVE OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

PARCELS 2, 3 AND 4 OF PARCEL MAP NO. 13141, ON FILE IN BOOK 151, PAGES 66 THROUGH 69, OF PARCEL MAPS, RECORDS OF SAN BERNARDINO COUNTY, CALIFORNIA, AS AMENDED BY CERTIFICATE OF CORRECTION RECORDED MARCH 06, 1991 AS INSTRUMENT NO. 91-077510, OF OFFICIAL RECORDS.

ASSESSOR PARCEL NUMBERS:

*0211-222-55, 0211-222-56,
0211-232-04, 0211-232-05, 0211-232-06, 0211-232-07, 0211-232-44, 0211-232-45, 0211-232-46.*

EXHIBIT "B"

TENANT'S INITIAL IMPROVEMENTS

1. Master Plan; Phasing

(a) The Project will be developed on the Premises pursuant to a master plan to be prepared by Tenant (the "Master Plan"). The Master Plan, and any subsequent material modifications to same, will be subject to the prior written approval of Landlord which shall not be unreasonably withheld or delayed.

(b) The parties anticipate that the Project may be developed in phases (each, a "Phase") as dictated by leasing demand, market forces and tenant requirements. Development of each Phase shall comply with a Phase Development Plan for such Phase as may be modified by Tenant to be prepared by Tenant. The term "Phase Development Plan" shall mean a development plan which contains all of the elements and complies with all of the requirements of this Section 1(b). Each Phase Development Plan, and all subsequent material modifications to same, shall be consistent with the Master Plan and shall be subject to Landlord's approval. Each Phase Development Plan must include the following elements, all sufficient to enable the Landlord to make an informed judgment about the design and construction of the applicable Phase of the Project:

(i) The legal description and survey map of the proposed Phase;

(ii) The site layout (including building locations and parking), building square footages and building heights, all consistent with the Master Plan;

(iii) The proposed utilities, sewer and service connections, locations of ingress and egress to and from public thoroughfares, curbs, gutters, parkways, street lighting, designs and locations for outdoor signs, storage areas, canopies and landscaping;

(iv) The proposed uses of each portion of the Phase if known; and

(v) An anticipated construction schedule.

2. Governmental Approvals

a. The parties hereto acknowledge that, in order for the Project to be constructed, it will be necessary to make applications to the appropriate governmental agencies to verify compliance of the Project (as described in the Master Plan and each Phase Development Plan) with local zoning, comply with the California Environmental Quality Act ("CEQA"), obtain environmental permits and approvals, and obtain building permits for construction of the proposed improvements outlined in a Phase Development Plan. Accordingly, Tenant shall engage the services of professional and technical consultants and otherwise incur such costs and expenses as may be reasonably necessary for (a) the preparation of a Phase Development Plan, geological reports and such other tests, studies, and reports as may be necessary for obtaining such governmental approvals, permits and authorizations for the development of a Phase (collectively, "Government Approvals"), and (b) the implementation of any requirements under such Governmental Approvals, including, without limitation, any mitigation measures required

as a result of compliance with CEQA. Tenant will comply with CEQA and secure all the Governmental Approvals needed for construction and operation of the Project at its sole cost and expense.

b. All applications and other consents and documentation for the Phase submitted in connection with this Lease shall be consistent with the Phase Development Plan. Subject to the foregoing, (a) all Governmental Approvals shall be obtained in the name of the Tenant or an authorized agent, (b) subject to the limitations in this Lease, Landlord shall execute any applications or other consents or documentation necessary to permit Tenant to process Governmental Approvals consistent with the Master Plan and the applicable Phase Development Plan, and (c) Tenant shall substantially prepare, file and process all applications for Governmental Approvals necessary for development of the Project consistent with the Master Plan and the applicable Phase Development Plan. Upon expiration or termination this Lease, all Governmental Approvals with respect to the Premises shall revert to Landlord in its "as-is" condition, and Tenant shall execute an assignment thereof.

c. Tenant will keep Landlord reasonably informed as to the status of all applications for Governmental Approvals, and will deliver to Landlord a copy of each application or request for approval as filed with the appropriate governmental agencies.

d. Landlord shall actively participate, assist and cooperate with Tenant in connection with the entitlement, construction and operation of the Project, including, without limitation, (i) the CEQA process, (ii) obtaining all Governmental Approvals, (iii) obtaining the approval of the Federal Aviation Administration, Caltrans and/or any other applicable governmental authority in connection with height restrictions during the course of construction, (iv) performing habitat mitigation as required by the California Department of Fish and Wildlife and/or any other applicable governmental authority, and (v) working with the San Bernardino County Airport Land Use Commission.

e. Tenant acknowledges that the City, not Landlord, is (i) the lead agency for purposes of CEQA, and (ii) the zoning approval authority, relating to the Premises and the Project given the unique circumstances that the Premises are non-aeronautical lands. While the City is a member of Landlord (in its capacity as a joint powers authority), Landlord is an agency independent of the City. Notwithstanding the foregoing, Landlord shall actively participate, assist and cooperate with Tenant in connection with Tenant's dealings with the City for the entitlement, construction and operation of the Project, including, without limitation, CEQA and all Governmental Approvals to be obtained from the City.

f. If any claim or action is brought with respect to the Project under CEQA, Landlord shall actively participate, assist and cooperate with Tenant in connection with the resolution of such claim or action. Further, if any claim or action is brought with respect to the Project under CEQA, Tenant shall continue to have the right to pursue all Governmental Approvals necessary for the Project (subject to resolution of such claim or action), and Landlord shall continue to actively participate, assist and cooperate with Tenant in that regard pursuant to Sections 2(d) and 2(e) above.

3. Subdivision of Premises

a. Tenant agrees to plat or utilize lot lines or lot mergers the premises to be included in each Phase. The plat shall be consistent with the Master Plan, and each Phase parcel that is the subject of the proposed plat shall be designed to permit development of the planned commercial facilities consistent with requirements of the applicable Phase Development Plan. Landlord agrees to execute the proposed plat so long as the proposed plat is consistent with the Master Plan and the applicable Phase Development Plan; provided however, that Landlord may, in its reasonable discretion, withhold its execution of the proposed plat if it provides for the dedication of land or the granting of utility or other easements not provided for in the Master Plan or the applicable Phase Development Plan.

EXHIBIT "C"

Insurance Requirements

Tenant shall, at a minimum, provide or cause to be provided, pay for at its sole cost and expense, and maintain in force at all times during the term of the Lease (unless otherwise provided), at minimum, the insurance coverages set forth below. Such policy or policies shall be issued by companies authorized to do business in the State of California. The limits established herein are minimums and Tenant may carry higher limits at its option. The Landlord does not warrant that the limits set herein will fully protect Tenant in all events and for all occurrences.

1. Non-Airfield Coverage.

1.1. Commercial General Liability. Commercial General Liability insurance policy with minimum limits of Ten Million Dollars (\$10,000,000.00) per occurrence combined single limit for Bodily Injury Liability and Property Damage Liability and Ten Million Dollars (\$10,000,000.00) aggregate with a carrier having an A.M. Best rating of no less than A-VII. Such limits may be derived from a combination of general liability and excess coverage limits. Coverage must be afforded on a form no more restrictive than the latest edition of the Comprehensive General Liability policy, without restrictive endorsements, as filed by the Insurance Services Office and must include:

- a. Premises and/or Operations.
- b. Independent Contractors or Owners and Contractors Protective Liability coverage, which includes liability coverage for operations performed for the named insured by independent and/or subcontractors hired and acts or omissions of the named insured in connection with their general supervision of such operations.
- c. Products and/or Completed Operations for Construction Projects. Tenant shall maintain in force until at least two (2) years after completion of all work required under the Contract, coverage for Products and Completed operations, including Broad Form Property Damage. Tenant shall provide such certificates of insurance or endorsements evidencing this insurance coverage to Landlord for two (2) years after completion of all work required under a Contract.
- d. Explosion/Collapse Hazard.
- e. Broad Form Property Damage.
- f. Broad Form Contractual Coverage applicable to this specific contract, including any hold harmless and/or indemnification agreement.
- g. Personal Injury Coverage with Employee and Contractual Exclusions removed

with minimum limits of coverage equal to those required for Bodily Injury Liability and Property Damage Liability.

- 1.2. Commercial Automobile Liability Insurance. If applicable, shall be provided with minimum limits of One Million Dollars (\$1,000,000.00) for non-airside circulation per occurrence, combined single limit for Bodily Injury Liability and Property Damage Liability. Coverage must be afforded on a form no more restrictive than the latest edition of the Business Automobile Liability Policy, as filed by the Insurance Services Office and must include:
 - a. Owned vehicles.
 - b. Hired and Non-owned vehicles.
 - c. Employers' Non-ownership.
 - d. Any Auto.
2. Workers' Compensation Insurance. If Tenant has employees, Workers' Compensation Insurance shall be provided to apply for all employees in compliance with the "Workers' Compensation Law" of the State of California and all Applicable Laws and Regulations. Employers' Liability with a limit of One Million Dollars (\$1,000,000.00) each accident. A waiver of subrogation in favor of OIAA shall apply.
3. All-Risk Property Insurance shall be provided for physical damage to the property of Tenant and to the Premises and other improvements, with coverage for a minimum of one hundred percent (100%) of the replacement value of the property. For All Other Perils, the deductible may not exceed One Hundred Thousand Dollars (\$100,000.00) per occurrence except Wind, Hail and Flood. For Wind, Hail and Flood, the deductible should not exceed five percent (5%) of property value. Any deviations from this will be reviewed and approved by the Landlord. Landlord shall be a loss payee or an additional insured for this coverage and shall be provided with a thirty (30) days prior written notice of cancellation and/or expiration provision.
4. All Coverages.
 - 4.1. Landlord is to be expressly included as an "Additional Insured" in the name of "Ontario International Airport Authority" with respect to liability arising out of operations performed for Landlord by or on behalf of Tenant or acts or omissions of Tenant in connection with general supervision of such operation.

Separate endorsements must be provided and state the following or equivalent:

Additional Insured Clause. "It is further agreed such insurance as is afforded by this policy shall also apply to the Landlord, its officers, directors, agents, employees, affiliates, partners, volunteers, representatives, and the Commission, Landlord's members and commissioners (i.e., the members of the joint powers authority); as additional insureds but only with respect to legal liability or claims caused by, arising out of, or resulting directly, or indirectly from the operations of the named insured."

Primary Insurance Clause. “It is further agreed that such insurance as is afforded by this policy for the benefit of the Landlord, its officers, directors, agents, employees, affiliates, partners, volunteers, representatives, and Commission, Landlord’s members and commissioners (i.e., the members of the joint powers authority), shall be primary insurance as respects any claim, loss or liability arising directly or indirectly from the named insured’s operations, and any other insurance shall be excess and non-contributory with the insurance provided hereunder.”

EXHIBIT "D"

LEASE GUARANTY

THIS LEASE GUARANTY ("**Guaranty**") is made by _____ ("**Guarantor**") in favor of ONTARIO AIRPORT AUTHORITY, a joint powers authority ("**Landlord**") in connection with that certain Ground Lease dated _____, 202_ (the "**Lease**") pursuant to which Landlord is to lease to CanAm Ontario, LLC, a Delaware limited liability company ("**Tenant**") certain premises located in the City of Ontario, County of San Bernardino, California legally described on Exhibit A-2 attached to the Lease. (the "**Premises**"). Any initially capitalized terms used in this Guaranty which are not otherwise defined in this Guaranty shall have the meanings given to such terms in the Lease.

A. Landlord requires this Guaranty as a condition to its execution of the Lease and the performance of the obligations to be performed under the Lease by Landlord.

B. Guarantor has agreed to provide this Guaranty to induce Landlord to enter into the Lease with Tenant and perform its obligations under the Lease.

In consideration of Landlord's agreement to execute the Lease and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Guarantor does hereby agree with Landlord as follows:

1. The Lease is hereby incorporated into and made a part of this Guaranty by this reference.

2. Guarantor hereby unconditionally guarantees, as a primary obligor and not as a surety, without deduction by reason of setoff, defense or counterclaim, the full and punctual payment of all sums of rent and other amounts payable under the Lease and the full and punctual performance of all terms, covenants and conditions in the Lease to be kept, performed and/or observed by Tenant. Guarantor's obligations under this Guaranty are continuing and unconditional.

3. Guarantor hereby agrees that, without the consent of or notice to Guarantor and without affecting any of the obligations of Guarantor hereunder: (a) the Lease may be extended and any other term, covenant or condition of the Lease may be amended, compromised, released or otherwise altered by Landlord and Tenant, and Guarantor does guarantee and promise to perform all the obligations of Tenant under the Lease as so extended, amended, compromised, released or altered; (b) any guarantor of or party to the Lease may be released, substituted or added; (c) any right or remedy under the Lease may be exercised, not exercised, impaired, modified, limited, destroyed, or suspended; (d) Landlord or any other person may deal in any manner with Tenant, any guarantor, any party to the Lease or any other person; (e) Landlord may permit Tenant to holdover the Premises beyond the Lease Term; and (f) all or any part of the Premises or of Tenant's rights or liabilities under the Lease may be sublet, assigned or assumed. Without in any way limiting the foregoing, Guarantor agrees not to unreasonably withhold its consent to any sublease, assignment of the Lease or other modification of the Lease which is agreed to by Landlord and Tenant.

4. Guarantor hereby waives and agrees not to assert or take advantage of: (a) any right to require Landlord to proceed against Tenant, or any other guarantor or person or to pursue any other security or remedy before proceeding against Guarantor; (b) any defense based on the genuineness, validity, regularity or enforceability of the Lease; (c) any right or defense that may arise by reason of the incapacity, lack of authority, death or disability of Tenant or any other person; and (d) any right or defense arising by reason of the absence, impairment, modification, limitation, destruction or cessation (in bankruptcy, by an election of remedies, or otherwise) of the liability of Tenant, of the subrogation rights of Guarantor or of the right of Guarantor to proceed against Tenant for reimbursement. Without limiting the generality of the foregoing, Guarantor hereby waives any and all benefits of the provisions of Sections 2809, 2810 and 2845 of the California Civil Code and any similar or analogous statutes of California or any other jurisdiction.

5. Guarantor hereby waives and agrees not to assert or take advantage of (a) any right or defense based on the absence of any or all presentments, demands (including demands for performance), notices (including notices of any adverse change in the financial status of Tenant, notices of any other facts which increase the risk to Guarantor, notices of non-performance and notices of acceptance of this Guaranty) and protests of each and every kind; (b) the defense of any statute of limitations in any action under or related to this Guaranty or the Lease; (c) any right or defense based on a lack of diligence or failure or delay by Landlord in enforcing its rights under this Guaranty or the Lease.

6. Guarantor hereby waives and agrees not to assert or take advantage of any right to (a) exoneration if Landlord's actions shall impair any security or collateral of Guarantor; (b) any security or collateral held by Landlord; (c) require Landlord to proceed against or exhaust any security or collateral before proceeding against Guarantor; (d) require Landlord to pursue any right or remedy for the benefit of Guarantor. Without limiting the generality of the foregoing, Guarantor hereby waives any and all benefits of the provisions of Sections 2819, 2849 and 2850 of the California Civil Code and any similar or analogous statutes of California or any other jurisdiction.

7. Guarantor shall not, without the prior written consent of Landlord, commence, or join with any other person in commencing, any bankruptcy, reorganization or insolvency proceeding against Tenant. Guarantor's obligations under this Guaranty shall in no way be affected by any bankruptcy, reorganization or insolvency of Tenant or any successor or assignee of Tenant or by any disaffirmance or abandonment of the Lease or any payment under this Guaranty by a trustee of Tenant in any bankruptcy proceeding including, without limitation, any impairment, limitation, or modification of the liability of Tenant or the estate of Tenant in bankruptcy, or of any remedy for the enforcement of Tenant's liability under the Lease resulting from the operation of any present or future provision of any federal or state bankruptcy or insolvency law or other statute or from the decision of any court. Guarantor shall file in any bankruptcy or other proceeding in which the filing of claims is required or permitted by law all claims which Guarantor may have against Tenant relating to any indebtedness of Tenant to Guarantor and will assign to Landlord all rights of Guarantor thereunder. Landlord shall have the sole right to accept or reject any plan proposed in such proceeding and to take any other action which a party filing a claim is entitled to do. In all such cases, whether in administration, bankruptcy or otherwise, the person or persons authorized to pay such claim shall pay to

Landlord the amount payable on such claim and, to the full extent necessary for that purpose, Guarantor hereby assigns to Landlord all of Guarantor's rights to any such payments or distributions to which Guarantor would otherwise be entitled; provided, however, that Guarantor's obligations hereunder shall not be satisfied except to the extent that Landlord receives cash by reason of any such payment or distribution. If Landlord receives anything hereunder other than cash, the same shall be held as collateral for amounts due under this Guaranty.

8. Until all the Tenant's obligations under the Lease are fully performed, Guarantor: (a) shall have no right of subrogation or reimbursement against the Tenant by reason of any payments or acts of performance by Guarantor under this Guaranty; (b) subordinates any liability or indebtedness of the Tenant now or hereafter held by Guarantor to the obligations of the Tenant under, arising out of or related to the Lease or Tenant's use of the Premises; and (c) acknowledges that the actions of Landlord may affect or eliminate any rights of subrogation or reimbursement of Guarantor as against Tenant without any liability or recourse against Landlord. Without limiting the generality of the foregoing, Guarantor hereby waives any and all benefits of the provisions of Section 2848 of the California Civil Code and any similar or analogous statutes of California or any other jurisdiction.

9. Guarantor shall upon written request by Landlord on an annual basis, provide reasonable evidence to Landlord of Guarantor's compliance with the Minimum Financial Covenant defined below. The "**Minimum Financial Covenant**" shall mean the Guarantor entity maintains a net worth of not less than \$200 Million and liquid assets of not less than \$50 Million until 50% of the Site Plan Buildings (as defined below) are initially leased, at which time the Minimum Financial Covenant shall be automatically reduced to a threshold of \$100 Million net worth and \$25 Million in liquid assets. When the Site Plan Buildings (which have not been previously assigned under a Project Ground Lease pursuant to Section 27 of the Lease) have reached Substantial Completion and are initially 90% leased or occupied by third parties not affiliated with Tenant, on a cumulative basis, this Guaranty shall terminate and be returned to Guarantor. For purposes of this Section 9, the "Site Plan Buildings" shall mean those buildings and related site improvements set forth on the Site Plan for the Project approved by the City of Ontario, as amended, from time to time by Tenant and the City. Prior to the execution of this Guaranty and upon reasonable request during the Term of the Lease, upon ten (10) business days prior written notice from Landlord, Guarantor agrees to provide Landlord with a current financial statement for Guarantor and financial statements for Guarantor for the two (2) years prior to the current financial statement year to the extent not previously delivered to Landlord. Guarantor's financial statements are to be prepared in accordance with generally accepted accounting principles and, if such is the normal practice of Guarantor, audited by an independent certified public accountant. Guarantor represents and warrants that all such financial statements shall be true and correct statements of Guarantor's financial condition.

10. The liability of Guarantor and all rights, powers and remedies of Landlord hereunder and under any other agreement now or at any time hereafter in force between Landlord and Guarantor relating to the Lease shall be cumulative and not alternative and such rights, powers and remedies shall be in addition to all rights, powers and remedies given to Landlord by law.

11. This Guaranty applies to, inures to the benefit of and binds all parties hereto, their heirs, devisees, legatees, executors, administrators, representatives, successors and assigns. This Guaranty may be assigned by Landlord voluntarily or by operation of law.

12. This Guaranty shall constitute the entire agreement between Guarantor and the Landlord with respect to the subject matter hereof. No provision of this Guaranty or right of Landlord hereunder may be waived nor may any guarantor be released from any obligation hereunder except by a writing duly executed by an authorized officer, director or trustee of Landlord. The waiver or failure to enforce any provision of this Guaranty shall not operate as a waiver of any other breach of such provision or any other provisions hereof. No course of dealing between Landlord and Tenant shall alter or affect the enforceability of this Guaranty or Guarantor's obligations hereunder.

13. Guarantor hereby agrees to indemnify, protect, defend and hold Landlord harmless from and against, all losses, costs and expenses including, without limitation, all interest, default interest, post-petition bankruptcy interest and other post-petition obligations, late charges, court costs and attorneys' fees, which may be suffered or incurred by Landlord in enforcing or compromising any rights under this Guaranty or in enforcing or compromising the performance of Tenant's obligations under the Lease.

14. The term "Landlord" whenever hereinabove used refers to and means the Landlord in the foregoing Lease specifically named and also any assignee of said Landlord, whether by outright assignment or by assignment for security, and also any successor to the interest of said Landlord or of any assignee of such Lease or any part thereof, whether by assignment or otherwise. The term "Tenant" whenever hereinabove used refers to and means the Tenant in the foregoing Lease specifically named and also any assignee or subtenant of said Lease and also any successor to the interests of said Tenant, assignee or sublessee of such Lease or any part thereof, whether by assignment, sublease or otherwise including, without limitation, any trustee in bankruptcy and any bankruptcy estate of Tenant, Tenant's assignee or sublessee.

15. If any or all Guarantors shall become bankrupt or insolvent, or any application shall be made to have any or all Guarantors declared bankrupt or insolvent, or any or all Guarantors shall make an assignment for the benefit of creditors, or any or all Guarantors shall enter into a proceeding for the dissolution of marriage, or in the event of death of any or all Guarantors, notice of such occurrence or event shall be promptly furnished to Landlord by such Guarantor or such Guarantor's fiduciary. This Guarantee shall extend to and be binding upon each Guarantor's successors and assigns, including, but not limited to, trustees in bankruptcy and Guarantor's estate.

16. Any notice, request, demand, instruction or other communication to be given to any party hereunder shall be in writing and sent by registered or certified mail, return receipt requested in accordance with the notice provisions of the Lease. The Tenant shall be deemed Guarantor's agent for service of process and notice to Guarantor delivered to the Tenant at the address set forth in the Lease shall constitute proper notice to Guarantor for all purposes. Notices to Landlord shall be delivered to Landlord's address set forth in the Lease. Landlord, at its election, may provide an additional notice to Guarantor at the address provided under Guarantor's signature below.

17. If either party hereto participates in an action against the other party arising out of or in connection with this Guaranty, the prevailing party shall be entitled to have and recover from the other party reasonable attorneys' fees, collection costs and other costs incurred in and in preparation for the action. Guarantor hereby waives any right to trial by jury and further waives and agrees not to assert or take advantage of any defense based on any claim that any arbitration decision binding upon Landlord and Tenant is not binding upon Guarantor.

18. Guarantor agrees that all questions with respect to this Guaranty shall be governed by, and decided in accordance with, the laws of the State of California.

19. Should any one or more provisions of this Guaranty be determined to be illegal or unenforceable, all other provisions shall nevertheless be effective.

20. Time is strictly of the essence under this Guaranty and any amendment, modification or revision hereof.

21. If more than one person signs this Guaranty, each such person shall be deemed a guarantor and the obligation of all such guarantors shall be joint and several. When the context and construction so requires, all words used in the singular herein shall be deemed to have been used in the plural. The word "person" as used herein shall include an individual, company, firm, association, partnership, corporation, trust or other legal entity of any kind whatsoever.

22. If Guarantor is a corporation, each individual executing this Guaranty on behalf of said corporation represents and warrants that he is duly authorized to execute and deliver this Guaranty on behalf of said corporation, in accordance with a duly adopted resolution of the Board of Directors of said corporation or in accordance with the by-laws of said corporation, and that this Guaranty is binding upon said corporation in accordance with its terms. If Guarantor is a corporation, Landlord, at its option, may require Guarantor to concurrently, with the execution of this Guaranty, deliver to Landlord a certified copy of a resolution of the Board of Directors of said corporation authorizing or ratifying the execution of this Guaranty.

23. Without limiting the generality of any of the covenants and agreements of the Guarantor set forth above in this Guaranty, Guarantor hereby waives any and all benefits of the provisions of Section 2822 of the California Civil Code and any similar or analogous statutes of California or any other jurisdiction.

24. The Guaranty will be terminated and returned to Guarantor in accordance with the terms of Section 9 above and otherwise as expressly provided under the terms of the Lease.

[signatures on next page]

Executed on this ____ day of _____, 202_.

_____, a

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

Address of Guarantor:

EXHIBIT "E"

COMPLETION GUARANTY

COMPLETION GUARANTY
(Ontario, San Bernardino County, California)

This Completion Guaranty ("Guaranty"), dated for reference purposes as of the Effective Date of the Lease (defined below), is made by US RE COMPANY, LLC, a Delaware limited liability company ("Guarantor"), to and for the benefit ONTARIO INTERNATIONAL AIRPORT AUTHORITY, a joint powers authority ("Beneficiary"). Capitalized terms not otherwise defined herein have the meanings specified in the Lease (as defined below).

Recitals

- A. CANAM ONTARIO, LLC, a Delaware limited liability company and affiliate of Guarantor ("Tenant"), and Beneficiary are parties to that certain Ground Lease (the "Lease") dated of even date herewith, relating to among other things, the development and construction by Tenant of Initial Improvements on unimproved land totaling approximately 197.848 acres located in Ontario, San Bernardino County, California, as more particularly described in the Lease (the "Property").
- B. Beneficiary is unwilling to enter into the Lease unless Guarantor guaranties to Beneficiary the Substantial Completion of the Initial Improvements (as both terms are defined in the Lease) by Tenant under the Lease as set forth herein.

Guaranty

In consideration of the foregoing and to induce Beneficiary to enter into the Lease, Guarantor agrees as follows:

- 1. Guarantor unconditionally and absolutely guarantees to Beneficiary the Substantial Completion of the Initial Improvements by Tenant in accordance with the Lease (the "Obligations"). Without limiting the foregoing, Guarantor shall perform (or cause to be performed) the Obligations if Tenant shall fail to fulfill the Obligations in accordance with the Lease.
- 2. Guarantor shall perform the Obligations strictly in accordance with the terms and conditions of the Lease. Guarantor represents and warrants that it has a material economic interest in Tenant and that the execution of the Lease will be of direct benefit to Guarantor. Guarantor further covenants and agrees that this Guaranty shall be and remain in full force and effect as to any renewal, modification, amendment, or extension of the Lease, and as to any assignee of Tenant's interest or interests under the Lease; provided, however, that this Guaranty shall terminate upon Substantial Completion of the Initial Improvements.
- 3. Guarantor waives (a) presentment and demand for performance to Tenant, and (b) protest and notice of dishonor or default to which Guarantor might otherwise be entitled under a guaranty.
- 4. This Guaranty is an absolute and unconditional guaranty of performance and not of collection. Guarantor agrees that it is not necessary for Beneficiary, in order to enforce

this Guaranty, to institute suit or exhaust its legal remedies against Tenant; but the sole condition precedent to enforcement of the obligations of Guarantor hereunder is that Tenant does not perform its Obligations in accordance with the terms of the Lease.

5. This Guaranty is governed as to its validity, construction and performance by the laws of the State of California, without regard to its conflict of law provisions.
6. Guarantor agrees that this Guaranty is a continuing guaranty and will remain in full force and effect until Substantial Completion of the Initial Improvements, at which time Beneficiary agrees to execute and deliver to Guarantor a document acknowledging termination of this Guaranty.
7. This Guaranty is binding upon and inures to the benefit of Guarantor and Beneficiary and their respective successors and assigns; provided, however, that Guarantor shall not assign its rights or delegate its obligations under this Guaranty. No modification or amendment of this Guaranty is effective unless executed by Guarantor and consented to by Beneficiary in writing, and no cancellation of this Guaranty is valid unless executed by Beneficiary in writing.
8. Guarantor has all rights and defenses that Tenant may have to any obligation relative to the Obligations, except that the liability of Guarantor is not affected by (a) any defense based upon an election of remedies by Beneficiary that destroys or otherwise impairs the subrogation rights of Guarantor or the right of Guarantor to proceed against Tenant for reimbursement; (b) any duty on the part of Beneficiary to disclose to Guarantor any facts Beneficiary may know about Tenant, it being agreed that Guarantor is fully responsible for being and keeping informed of the financial condition of Tenant and of all circumstances bearing on the risk of non-performance of the Lease obligations relative to the Obligations; (c) any defense arising from the bankruptcy or insolvency of Tenant; or (d) any assignment by Tenant of the Lease.
9. All notices hereunder will be given in writing, will refer to this Guaranty, and will be personally delivered or sent by overnight courier, or registered or certified mail (return receipt requested).

Notices to Beneficiary will be delivered at the following addresses:

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

With a copy to:

Gatzke Dillon & Balance LLP
2762 Gateway Road
Carlsbad, CA 92009
Attn: Kevin Sullivan
Email: KSullivan@gdandb.com

Notices to Guarantor will be delivered at the following addresses:

US RE Company, LLC
9830 Colonnade Blvd. Suite 600
San Antonio, Texas 78230-2239
Attn: Lange Allen

With a copy to:

US RE Company, LLC
9830 Colonnade Blvd. Suite 600
San Antonio, Texas 78230-2239
Attn: Chief Legal Counsel

With a copy to:

notice@usrealco.com

Either party may from time to time change such address by giving to the other party notice of such change in accordance with this Section 9.

10. All of the terms and provisions of this Guaranty are recourse obligations of Guarantor and are not restricted by any limitation on personal liability in the Lease or otherwise.

THIS WRITTEN GUARANTY REPRESENTS THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT WRITTEN AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

[SIGNATURE PAGE FOLLOWS]

GUARANTOR:

US RE COMPANY, LLC,
a Delaware limited liability company

By: _____

Name: _____

Title: _____

Date: _____

EXHIBIT "F"

RECOGNITION, NONDISTURBANCE AND ATTORNMENT AGREEMENT

[To be attached by the Parties prior to expiration of Contingency Period]

EXHIBIT "G"

ESTOPPEL CERTIFICATE

GROUND LEASE ESTOPPEL CERTIFICATE

The _____ undersigned, _____,
_____ ("Ground Lessor") and _____,
a _____ ("Ground Lessee"), are the current lessor and lessee,
respectively under that certain Ground Lease dated _____, 202__ (the "Ground Lease") The Ground Lease relates to the real property described on Exhibit A (the "Premises").

_____ (the "Lender") has committed to make a loan (the "Loan") to Ground Lessee which will be secured by, among other things, a Leasehold Construction Deed of Trust with Absolute Assignment of Leases and Rents, Security Agreement and Fixture Filing encumbering only Lessee's leasehold interest in the Premises and not Ground Lessor's fee title interest in the Premises.

Ground Lessor acknowledges that Lender is relying on this Ground Lease Estoppel Certificate (this "Certificate") in making the Loan secured by the Leasehold Deed of Trust and Ground Lessor hereby represents and warrants to Lender and covenants and agrees with Lender as follows:

1. A true and correct copy of the executed Ground Lease and any memorandum thereof has been delivered to Lender and shall be deemed to be the Ground Lease referred to in this Certificate.

2. The Ground Lease is in full force and effect, has not been terminated, modified, amended, extended or renewed, and is binding upon, and enforceable against, Ground Lessor and Ground Lessee in accordance with its terms except as limited by general principles of equity and by bankruptcy, insolvency and other similar laws affecting creditors' rights.

3. The Lease Term (as defined in the Ground Lease) commenced on [_____] and expires _____ (____) years thereafter unless sooner terminated in accordance with the Ground Lease. All conditions to the commencement of the Ground Lease have been satisfied or waived in accordance with the Ground Lease.

4. Ground Lessor has not delivered a written notice of default under the Ground Lease, and Ground Lessor does not know of any event or condition which, with the passage of time or the giving of notice or both, would constitute such a breach or default by Ground Lessor or Ground Lessee under the Ground Lease.

5. Ground Lessor has not received written notice of any pending eminent domain proceedings or other governmental actions or any judicial actions of any kind against Ground Lessor's interest in the Premises.

6. All amounts due from Ground Lessee under the Ground Lease have been paid in full as of the date hereof. Annual Rent under the Ground Lease is set forth on a schedule to the Ground Lease.

7. Ground Lessee acknowledges and agrees that so long as the Leasehold Deed of Trust remains as an encumbrance on the Premises, any amendment, modification, waiver or termination of the Ground Lease requires the prior written consent of Lender in order to be binding upon Lender or its successors and assigns, which Lender consent shall not be unreasonably withheld, conditioned, or delayed.

8. Ground Lessor consents to the execution, delivery, recordation and performance of the Leasehold Deed of Trust and confirms that the Leasehold Deed of Trust does not constitute any breach, violation or default under the Ground Lease. Ground Lessor agrees that the Leasehold Deed of Trust is a "Leasehold Encumbrance" (as defined in the Ground Lease) and, accordingly, the provisions of Article ___ of the Ground Lease shall be applicable to the Leasehold Deed of Trust and to the rights and remedies of Lender with respect thereto.

9. Ground Lessor acknowledges that it has received the notice contemplated pursuant to Section _____ of the Ground Lease from Lender and Ground Lessor agrees to give Lender written notice simultaneously with any notice given to Ground Lessee of any default of Ground Lessee and that Lender shall have the cure and other rights described in Article ___ of the Ground Lease. The address for notices to Lender is as follows:

With a copy to:

10. Ground Lessor agrees that any delivery of an assignment of all of Ground Lessee's interests and obligations in the Ground Lease (including as to the Lease Guaranty, Exhibit D to the Ground Lease) pursuant to foreclosure proceedings, the exercise of any power of sale or by deed or assignment in lieu of foreclosure or otherwise to the Lender of Ground Lessee's leasehold estate, or interests and obligations in the Ground Lease or to any successors or assigns of Lender shall be subject to the prior written consent of Ground Lessor, which consent shall not be unreasonably withheld, conditioned, or delayed.

11. This Certificate shall be binding upon Ground Lessor and its respective successors and assigns and shall inure to the benefit of and be enforceable by Lender and its successors, assigns and designees, including, but not limited to, any purchaser at a foreclosure sale or trustee's sale, or person or entity receiving a deed (or assignment) in lieu of foreclosure

(which successors, assigns, designees, purchaser, person or entity shall be deemed to be included within the term "Lender" for purposes of this Certificate).

12. Notwithstanding anything in the Ground Lease to the contrary a default or event of default under the Leasehold Deed of Trust (unless such event would independently constitute a default or Event of Default under the Ground Lease), shall not constitute a default or Event of Default under the Ground Lease.

13. This Certificate may be executed in one or more counterparts, each of which shall, for all purposes, be deemed an original and all such counterparts, taken together, shall constitute one and the same instrument.

[SIGNATURE PAGE FOLLOWS]

EXHIBIT A TO
MEMORANDUM
OF LEASE

-66-

IN WITNESS WHEREOF, Ground Lessor has duly executed, acknowledged and delivered this Ground Lease Estoppel Certificate as of _____, 202__.

GROUND LESSOR:

_____,
a _____

By: _____

Name: _____

Title: _____

EXHIBIT A TO
MEMORANDUM
OF LEASE

EXHIBIT "H"

SNDA

[TO BE PROVIDED AND MUTUALLY APPROVED
PRIOR TO LEASE EXECUTION]

EXHIBIT "I"

MEMORANDUM OF LEASE

RECORDATION REQUESTED BY:
AFTER RECORDATION RETURN TO:

Allen Matkins Leck Gamble Mallory
& Natsis LLP
1900 Main Street, 5th Floor
Irvine, CA 92614-7321
Attention: Gary S. McKitterick, Esq.

MEMORANDUM OF LEASE

This Memorandum of Lease ("**Memorandum**") is made as of this ___ day of _____, 202 __, between **ONTARIO INTERNATIONAL AIRPORT AUTHORITY**, a joint powers authority ("**Landlord**"), and **CANAM ONTARIO, LLC**, a Delaware limited liability company ("**Tenant**").

Landlord has leased and does hereby lease to Tenant, and Tenant has leased and does hereby lease from Landlord, upon the terms and conditions set forth in that certain Ground Lease of even date herewith, the real property described on **Exhibit A** to this Memorandum. **Exhibit A** is incorporated herein by reference.

1. **Term.** The term of this Lease begins on _____, 202__ (the "**Effective Date**") and expires on _____, unless earlier terminated pursuant to the terms of the Lease.

2. **Lease Incorporation; Purpose of Memorandum.** This Memorandum is subject to all conditions, terms and provisions of the Lease, and the Lease is hereby made a part hereof. This Memorandum has been executed for the purpose of recordation in order to give notice of the terms of the Lease, and is not intended, and shall not be construed, to define, limit, or modify the Lease. This Memorandum is not a complete summary of the Lease, nor shall any provisions of this Memorandum be used in interpreting the provisions of the Lease.

3. **Successors and Assigns.** This Memorandum shall be binding upon and inure to the benefit of the parties hereto and their respective permitted successors and assigns.

4. **Conflict.** In the event of a conflict between the terms of the Lease and this Memorandum, the Lease shall prevail. Reference should be made to the Lease for a more detailed description of all matters contained in this Memorandum.

5. **Exhibits and Recitals.** Each exhibit attached to and referred to in this Memorandum is hereby incorporated by reference. The recitals are incorporated herein by reference as matters of contract and not mere recital.

6. **Counterparts.** This Memorandum may be executed in as many counterparts as may be deemed necessary and convenient, and by the different parties hereto on separate counterparts, each of which, when so executed, shall be deemed an original, but all such counterparts shall constitute one and the same instrument.

This Memorandum may be executed in counterparts, each of which shall be deemed an original, and all of which, taken together, shall constitute but one and the same instrument.

[Signature page follows]

EXHIBIT A TO
MEMORANDUM
OF LEASE

TENANT:

CANAM ONTARIO, LLC,
a Delaware limited liability company

By: _____

Name: _____

Title: _____

Date: _____

EXHIBIT A TO
MEMORANDUM
OF LEASE

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF _____)
)ss
COUNTY OF _____)

On _____, 2021 before me, _____, a Notary Public in and for said County and State, personally appeared, _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity, and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

EXHIBIT A TO
MEMORANDUM
OF LEASE

EXHIBIT A TO MEMORANDUM OF LEASE
DESCRIPTION OF REAL PROPERTY

EXHIBIT "J"

OIAA to Provide Estoppel Form

[TO BE MUTUALLY APPROVED PRIOR TO EXECUTION]

EXHIBIT C

ESTOPPEL CERTIFICATE

To be attached prior to the expiration of the Contingency Period

EXHIBIT D

NON-FOREIGN AFFIDAVIT (FIRPTA)

Section 1445 of the Internal Revenue Code of 1986, as amended (the "**Code**"), provides that a transferee of a United States real property interest must withhold tax if the transferor is a foreign person.

To inform First American Title Company that withholding of tax is not required upon the transfer by OIAA (the "**Transferor**") of the United States and California real property interest more particularly described on Schedule A attached hereto and incorporated herein by reference (the "**Property**"), the undersigned hereby certifies and declares by means of this certification the following:

The Transferor is not a foreign corporation, foreign partnership, foreign trust, foreign estate or foreign person (as those terms are defined in the Code and the Income Tax Regulations promulgated thereunder); and

The Transferor's U.S. employer or tax (social security) identification number is _____

The Transferor is a _____, and the Transferor is not a disregarded entity as defined in Treasury Regulation Section 1.1445-2(b)(2)(iii).

Record title to the Property is in the name of the Transferor.

The address for the Transferor is:

"TRANSFEROR"

EXHIBIT E SITE PLAN

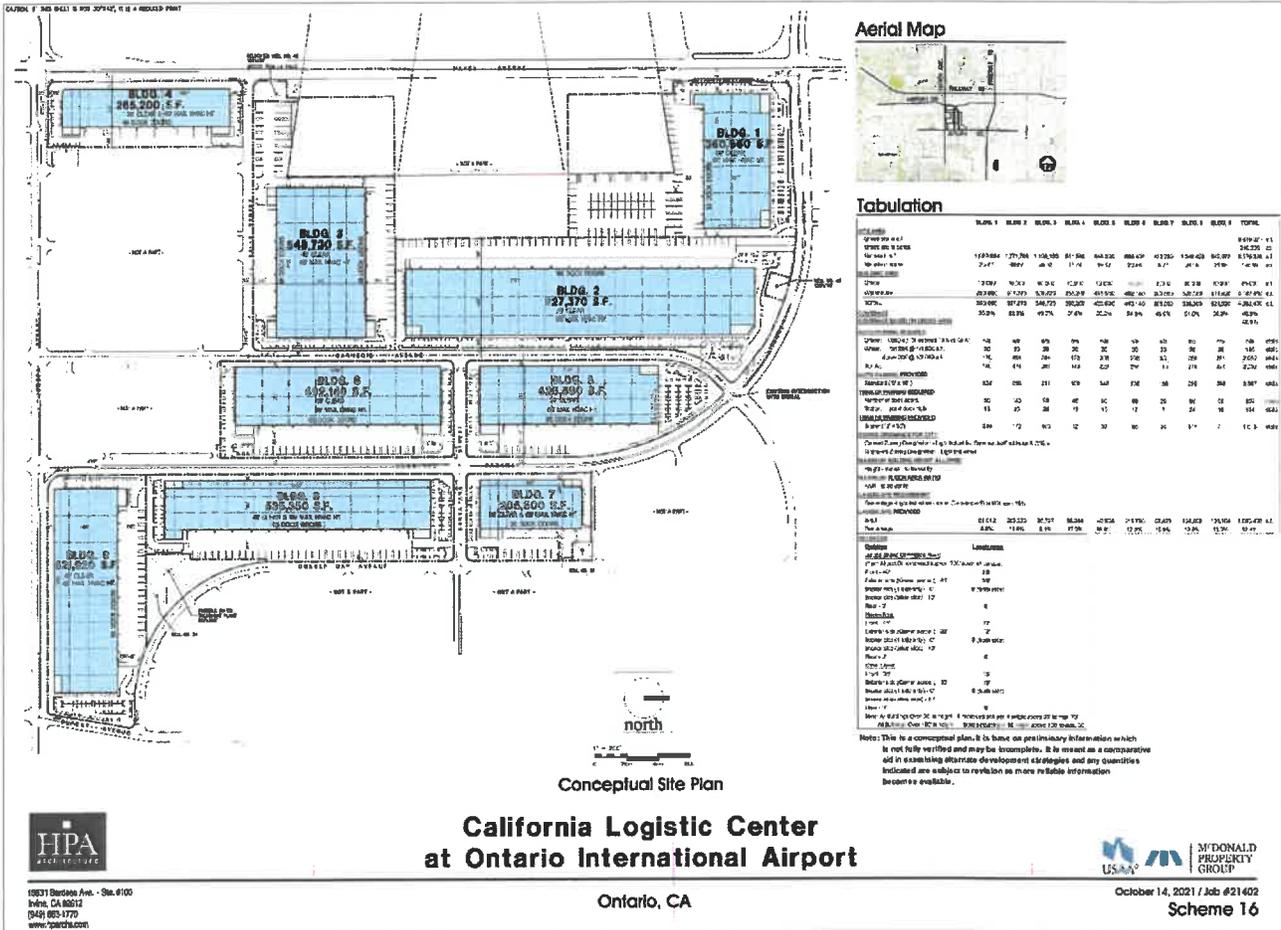


EXHIBIT F

MEMORANDUM OF AGREEMENT

To be attached prior to the expiration of the Contingency Period

EXHIBIT G

PERMITTED EXCEPTIONS

To be attached prior to the end of the Contingency Period

RESOLUTION NO. 2021-___

A RESOLUTION OF THE ONTARIO INTERNATIONAL AIRPORT AUTHORITY TO APPROVE AND ADOPT FINDINGS, INCLUDING AS TO “EXEMPT SURPLUS PROPERTY”, REGARDING THE DISPOSITION OF CERTAIN AIRPORT REAL PROPERTY, AND TO APPROVE AND AUTHORIZE THE CHIEF EXECUTIVE OFFICER (CEO), OR THE CEO’S DESIGNEE, TO EXECUTE NECESSARY DOCUMENTATION FOR A DEVELOPMENT AND ENTITLEMENT AGREEMENT AND A LONG-TERM GROUND LEASE FOR SUCH AIRPORT REAL PROPERTY WITH CANAM ONTARIO, LLC.

WHEREAS, the Ontario International Airport Authority (OIAA or Authority) was established under a Joint Exercise of Powers Agreement between the City of Ontario and the County of San Bernardino pursuant to the Joint Exercise of Powers Act of the State of California, for the purpose of operating, maintaining, managing, developing, and marketing the Ontario International Airport (Airport) and related Airport facilities;

WHEREAS, the Authority owns approximately 197 acres on the eastern end of the Airport, east of Haven Road, north of Jurupa Avenue, and south of Airport Drive, which include Assessor’s Parcel Numbers 0211-232-44-0-000, 0211-232-45-0-000, 0211-232-46-0-000, 0211-222-47-0-000, 0211-222-48-0-000, 0211-222-52-0-000 AND 0211-222-53-0-000, 0211-222-54-0-000, 0211-222-55-0-000, 0211-232-11-0-000, 0211-232-12-0-000, 0211-232-13-0-000, 0211-232-14, 0211-232-15-0-000, 0211-232-16-0-000, 0211-232-17-0-000, 0211-232-18-0-000, 0211-232-19-0-000, 0211-232-20-000, 0211-232-04-0-000, 0211-232-05-0-000, 0211-232-06-0-000, 0211-232-07-0-000, and 0211-222-56-0-000 (collectively the Property). The Property is surrounded by industrial buildings and land uses to the north, east, and south;

WHEREAS, in 2020, the Authority discussed with the Federal Aviation Administration (FAA) whether the possible lease and use of the Property for industrial logistics development related to the warehousing and distribution of goods and products would be subject to federal jurisdiction and approval. On November 23, 2020, the FAA issued to OIAA a letter under Section 163 of the FAA Reauthorization Act of 2018 regarding a portion of the Property. On January 21, 2021, the FAA issued to OIAA another letter under Section 163 of the Act regarding the remaining portions of the Property. Collectively, the two FAA letters stated that the proposed use of the Property for industrial logistics development related to the warehousing and distribution of goods and products would (1) create revenue to help fund Airport operating costs and (2) not adversely impact aircraft operations at the Airport. The FAA therefore determined it lacked authority to approve or disapprove any potential lease and development of the Property;

WHEREAS, the Property has been vacant and unused for decades. OIAA has determined that the Property is not suited for land uses for typical Authority or Airport aeronautical purposes, such as for runways, taxiways, terminals, hangars, and similar Airport facilities because the Property is physically separated and removed from the balance of the Airport by Haven Avenue, which runs along or near the entire western limits of the Property. Accordingly, the Property is not required for other Authority purposes, and pursuant to Government Code section 37395, can be leased for up to 55 years;

WHEREAS, between April and June 2020, OIAA commissioned three (3) separate and independent appraisals of the Property for the purpose of determining fair market value related to a sale or long-term lease of the Property;

WHEREAS, in February 2021, CBRE, Inc. (CBRE), on behalf of the OIAA, initiated an Offering of Memorandum for the proposed leasing and development of the Property. The Offering of Memorandum was distributed to CBRE's bidder list, which included more than 4,800 potential bidders nationwide. The first round offers received on April 9, 2021, included seventeen (17) responsive bidders. The second round of offers received on April 26, 2021, included twelve (12) responsive bidders. The final round of offers received on May 12, 2021, included five (5) responsive bidders. After the final round of offers/bids on June 23, 2021, the OIAA selection committee held interviews to understand bidders' proposals related to development process, timing, due diligence and environmental analysis, as well as a further analysis of their proposed ground lease offerings. After interviews, USAA Real Estate Company (later CanAm Ontario, LLC) was the final selected responsive bidder as the company was determined to have presented the best proposal for a long-term lease of the Property based on the bidding process, which proposal exceeded the determinations of fair market value in the appraisals for the Property discussed above. OIAA staff presented this determination and report on the bid process to the OIAA Commission in July 2021 and thereafter moved forward with negotiating lease and development terms relating to the Property;

WHEREAS, CanAm Ontario, LLC (CanAm) proposes a long-term Ground Lease for the Property for industrial logistics development related to the warehousing and distribution of goods and products (the Project), which use is generally complimentary with Airport operations. As detailed in the Agenda Report on the proposed Development and Entitlement Agreement and Ground Lease between OIAA and CanAm to be considered at the OIAA Commission's December 23, 2021, Regular public meeting, operations and uses on the Property under the proposed Ground Lease would involve significant improvements to the Property (subject to all environmental reviews and approvals), and significant rental revenues paid to OIAA over the 55-year term of the Ground Lease;

WHEREAS, operations under the proposed Project and Ground Lease will be also consistent with supply chain improvements that are encouraged in Governor Newsom's Executive Order N-19-21 regarding supply chain issues, which Order recognized that "the movement of goods and health of supply and distribution chains across California is a matter of vital statewide importance"

WHEREAS, given the unique circumstances that the Property is non-aeronautical lands of the Airport, the City of Ontario will be (i) the lead agency for purposes of compliance by the Project with the California Environmental Quality Act (CEQA), Public Resources Code § 21000 *et seq.*, and (ii) the zoning approval authority relating to the Property and the Project. Before approval by OIAA of any Ground Lease for the Property, or the allowance of any development activity on the Property related to the Project, CanAm shall be required to obtain all applicable land use, zoning, and CEQA reviews, approvals, and certifications for the Project (collectively "Government Approvals"), and shall implement any requirements under such Governmental Approvals, including, without limitation, any mitigation measures required as a result of compliance with CEQA;

WHEREAS, the Offering Memorandum and related request for proposals or bids process for the long-term Ground Lease and development of the Property summarized above confirmed that the proposed Ground Lease with CanAm will provide OIAA with fair market value for lease of the Property;

WHEREAS, certain State-imposed laws and regulations restrict and prevent use of the

Property for residential purposes and for some, but not all, non-residential uses, due to safety concerns and high noise levels;

WHEREAS, certain FAA-imposed regulations restrict and prevent use of the Property for residential purposes and for some, but not all, non-residential uses, due to safety concerns and high noise levels;

WHEREAS, such State and FAA laws and regulations justify a determination and finding by OIAA under Government Code section 54221(f)(1)(G) that the Property is “exempt surplus property” where housing would be prohibited;

WHEREAS, the OIAA Commission has reviewed and considered all materials identified and referred to in this Resolution, as well as all materials and documents discussed in and attached to the Agenda Report for this matter; and

WHEREAS, on December 20, 2021, the Authority provided notice of the Regular OIAA Commission meeting, which includes consideration of this matter, scheduled for December 23, 2021, in accordance with the Ralph M. Brown Act, Government Code § 54950, *et seq.*, and provided notice to Douglas Carstens, Esq.:

NOW, THEREFORE, BE IT RESOLVED by the OIAA Commission as follows:

SECTION 1. FINDINGS.

All Whereas clauses or Recitals in this Resolution above are incorporated by reference into these Findings.

Further, the OIAA Commission, in light of the whole record before it including, but not limited to (1) the Agenda Report, including attachments to the Report, for this matter, and (2) other substantial evidence within the record and/or provided at this December 23, 2021 Regular public meeting (all of which administrative record materials for this matter are incorporated by reference into this Resolution No. 2021-____), finds and determines as follows:

- 1. The Property is not required for other Authority purposes, and pursuant to Government Code section 37395, can be leased for up to 55 years.**

The Property has been vacant and unused for decades. OIAA has determined that the Property is not suited for land uses for typical Authority or Airport aeronautical purposes, such as for runways, taxiways, terminals, hangars, and similar Airport facilities because the Property is physically separated and removed from the balance of the Airport by Haven Avenue, which runs along or near the entire western limits of the Property. Accordingly, the Property is not required for other Authority purposes, and pursuant to Government Code section 37395, can be leased for up to 55 years.

- 2. State Law and the Ontario International Airport Land Use Compatibility Plan Establish Legal Restrictions that Prohibit Residential Housing on the Property.**

A. State Law Requires an Airport Land Use Compatibility Plan for the Airport

The California State Aeronautics Act (Public Utilities Code section 21670 *et seq.*) requires each airport to adopt an Airport Land Use Compatibility Plan and requires

affected agencies to adopt land use designations consistent with the terms therein. (Pub. Util. Code, §§ 21674, 21675, 21676, 21676.5.) The intent of the Legislature under the Aeronautics Act is to “discourage incompatible land uses near existing airports.” (*Id.* at § 21674.7.)

The Ontario International Airport Land Use Compatibility Plan, amended July 2018 (linked at <https://www.ontarioca.gov/planning/ont-iac> at Compatibility Plan, and incorporated in its entirety into this Resolution No. 2021-___), limits certain land uses near the airport based on state and FAA requirements. (Compatibility Plan, pp. 1-1, 1-2; see also Compatibility Plan, Appendix A, State Laws and Appendix B, Federal Aviation Regulations.) The Airport Compatibility Plan was created by the City of Ontario in coordination with the County of San Bernardino and other affected agencies, such as Riverside County and Los Angeles County. (*Id.* at pp. 1-3 through 1-4.) The policies set forth in the Compatibility Plan that limit land uses are requirements for surrounding jurisdictions, such as OIAA. (*Id.* at p. 2-4; see also Exhibit 2A: Affected Jurisdictions.) Affected agencies must modify, if necessary, any zoning and land use regulations to ensure they are consistent with the land use policies set forth in the Compatibility Plan. (*Id.* at p. 2-6; Gov. Code, § 65302.3; Pub. Util. Code, § 21676 [local agencies must comply with land use compatibility plans].)

B. State-Mandated Safety Policies in the Airport Land Use Compatibility Plan Prohibit Residential Housing and Uses on the Property.

The Airport Compatibility Plan required under State law adopts safety compatibility policies to minimize risks associated with off-airport accidents or emergency landings. More safety restrictions are set on residential land uses because residential uses warrant a greater degree of protection. (Compatibility Plan, p. 2-14.)

The Compatibility Plan creates five safety zones. (Compatibility Plan, p. 2-15.) “Residential development **is incompatible within all Safety Zones** (1 through 5).” (*Id.* at p. 2-15; see pp. 2-34 and 2-41.) “New mixed-use developments **will locate the residential component outside of all safety zones.**” (*Id.* at pp. 2-15; see p. 2-41.)

The Property is located within Safety Zones 1, 2, and 3 in the Compatibility Plan. (See Safety Zone Map Exhibit 1-8, attached to this Resolution as **Exhibit 1**; see also Appendix I, at I-13.) Residential development is therefore prohibited under State law for the Property under the Compatibility Plan’s Safety Policies.

C. State-Mandated Noise Policies in the Airport Land Use Compatibility Plan Prohibit Residential Housing and Uses on the Property

The Airport Compatibility Plan also establishes noise policies based on state regulations, guidelines, and the California Airport Land Use Planning Handbook. (*Id.* at p. 2-21.) The purpose of the noise policies is to “avoid the establishment of noise-sensitive land uses in the portions of the [Ontario International Airport] that are exposed to significant levels of aircraft noise.” (*Id.* at p. 2-19.)

Residential uses are incompatible with airport land areas with noise exposure CNEL 70 dB and above. (*Id.* at Tables 2-3 at p. 2-47.) Noise Policy SP3 states: “Residential infill development **should not be allowed in areas exposed to exterior noise levels equal to or greater than CNEL 70 dB.**” (*Id.* at p. 2-34.)

The Property is located directly below the flight path for the Airport. (Compatibility Plan, Modeled Flight Routes, Exhibit 1-13.) The Property is within the high noise impact zones of CNEL 70-75 dB and CNEL 75+ dB. (See Compatibility Plan, p. 1-10; Noise Map Exhibit 1-9, which Map is attached to this Resolution as **Exhibit 2**; see *also* Appendix I, at I-5.) Thus, residential development is not allowed on the Property under the Compatibility Plan’s noise policies. (Noise Map Exhibit 1-9; see *also* Appendix I, at I-6 [map of areas with residential land use designation, do not include the Property, or anywhere near the Property].)

3. Federal Regulations Prohibit Residential Uses and Housing on the Property.

FAA regulations require OIAA to “take appropriate action . . . to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations.” (49 U.S.C. § 47107(a)(10); see also FAA Order 5190.6B, (linked at: [FAA Order 5190.6B Change 1, Airport Compliance Manual, 22 November 2021](#) and incorporated in its entirety into this Resolution No. 2021-____.) This is considered a “federal obligation to ensure compatible land use.” (FAA Order 5190.6B, p. 20-2.)

“Incompatible land use at or near airports may result in the creation of hazards to air navigation and reductions in airport utility resulting from obstructions to flight paths or noise-related incompatible land uses resulting from residential construction too close to the airport.” (*Id.* at p. 20-1.) “Residential housing and other land uses near airports must remain compatible with airports and the airport approach/departure corridors.” (*Id.* at p. 20-1.) **“Restricting residential development near the airport is essential in order to avoid noise-related problems.”** (*Id.* at p. 20-2.)

FAA Order 5190.6B also states, **“The general rule on residential use of land on or near airport property is that it is incompatible with airport operations because of the impact of aircraft noise and, in some cases, for reasons of safety, depending on the location of the property.”** (*Id.* at p. 20-5.)

In sum, FAA Order 5190.6B mandates that OIAA ensures compatible land uses with land on or immediately surrounding the Airport, and that it therefore restrict residential housing on the Property, which is located directly below the flight path for the Airport and is within areas affected by high noise levels.

4. The Property is Exempt Surplus Property under Government Code Section 54221(f)(1)(G).

The State and federal laws and regulations discussed and referenced in Sections 2 and 3 (Findings) of this Resolution above warrant, justify, and result in a determination and finding by OIAA under Government Code section 54221(f)(1)(G) that the Property is “exempt surplus property” where housing would be prohibited from being developed.

The Property is suitable for use and development of industrial uses regarding the Project consistent with the Airport Compatibility Plan.

5. The Long-Term Ground Lease of the Property will Produce and Provide Fair Market Value to the Authority.

OIAA's Offering Memorandum, through CBRE, and the related request for proposals or bids process for the long-term ground lease and development of the Property summarized above confirmed that the proposed Ground Lease with CanAm Ontario, LLC, will provide OIAA with fair market value for lease of the Property. The proposed Ground Lease between OIAA and CanAm will provide lease rentals and revenues for the Property that exceed the determinations of fair market value for the Property contained in the three (3) separate appraisals for the Property discussed above.

6. The Proposed Development and Use of the Property Under the Ground Lease Will be Consistent with Vital State Objectives Regarding the Movement of Goods and Health of Supply and Distribution Chains Across California.

The proposed Project would utilize the Property for industrial logistics development related to the warehousing and distribution of goods and products. Operations under the proposed Project and Ground Lease will therefore be consistent with supply chain improvements that are encouraged in Governor Newsom's Executive Order N-19-21 regarding supply chain issues, which Order recognized that "the movement of goods and health of supply and distribution chains across California is a matter of vital statewide importance"

SECTION 2. OIAA COMMISSION ACTIONS:

1. Approval of Findings: The OIAA Commission approves and adopts the Findings set forth in Section 1 of this Resolution above.
2. Approval of the Development and Entitlement Agreement with CanAm Ontario, LLC: The OIAA Commission approves the Development and Entitlement Agreement (DEA) between CanAm Ontario, LLC, and OIAA included as Attachment A to the Agenda Report for this matter, and authorizes the OIAA's Chief Executive Officer (CEO), or the CEO's designee, to execute all documents related to the DEA.
3. Approval of the Ground Lease with CanAm Ontario, LLC: The OIAA Commission approves the Ground Lease between CanAm Ontario, LLC, and OIAA included as Attachment B to the Agenda Report for this matter, and, subject to satisfaction of each of the conditions stated and contained in Sections 2.2(a)(1), 2.3(d), 2.7, 4.1(f), and 4.1(g) of the DEA, authorizes the OIAA's Chief Executive Officer (CEO), or the CEO's designee, to execute all documents related to the Ground Lease.

PASSED, APPROVED, AND ADOPTED this 23rd day of December 2021.

ALAN D. WAPNER, OIAA PRESIDENT

ATTEST:

NATALIE GONZAGA, ASSISTANT SECRETARY

APPROVED AS TO LEGAL FORM:

LORI D. BALLANCE, GENERAL COUNSEL

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO)
CITY OF ONTARIO)

I, Natalie Gonzaga, Commission Clerk of the Ontario International Airport Authority, DO HEREBY CERTIFY that foregoing Resolution No. 2021-__ was duly passed and adopted by the Commission of the Ontario International Airport Authority at their Regular meeting held December 23, 2021 by the following roll call vote, to wit:

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSENT: COMMISSIONERS:

NATALIE GONZAGA, ASSISTANT SECRETARY

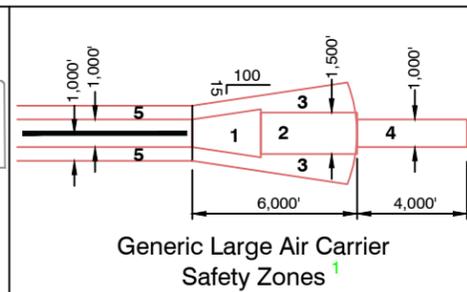
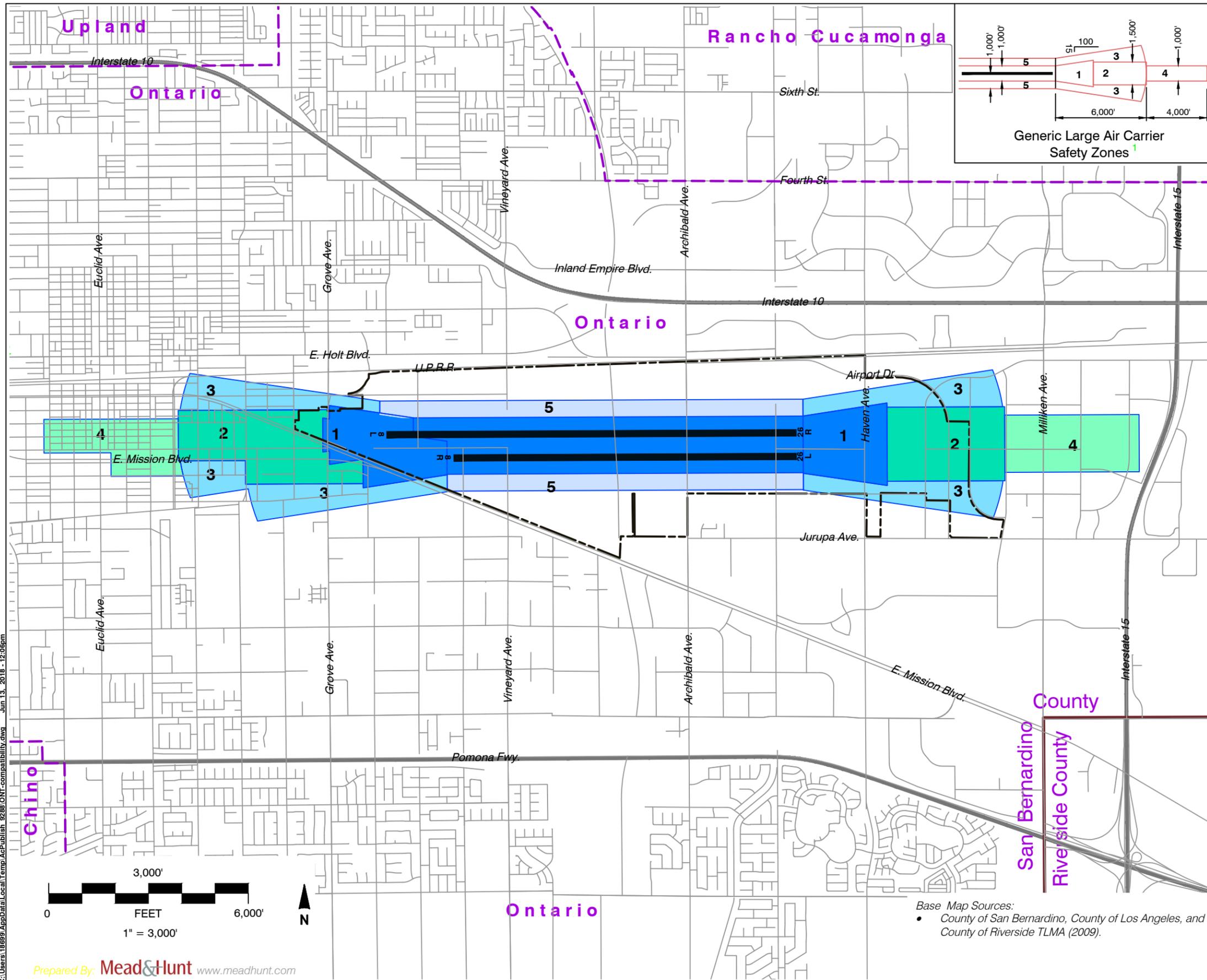
(SEAL)

The foregoing is the original of Resolution No. 2021-__ duly passed and adopted by the Commission of the Ontario International Airport Authority at their Regular meeting held December 23, 2021.

NATALIE GONZAGA, ASSISTANT SECRETARY

(SEAL)

EXHIBIT 1
OIAA RESOLUTION NO. 2021-____
(SAFETY ZONES MAP)



Legend

- Boundary Lines**
- Airport Property Line
 - County Line
 - City Limits
 - Street
 - Existing Runways Runway 8L-26R

Safety Zones

- No Project ²
- Zone 1
 - Zone 2
 - Zone 3
 - Zone 4
 - Zone 5

Notes

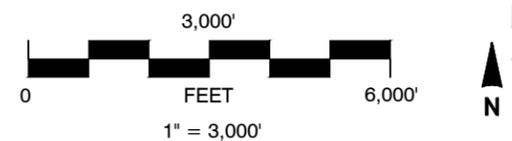
1. Generic Large Air Carrier Safety Zones source: California Airport Land Use Planning Handbook (January 2002). The generic safety zones translate nationwide aircraft accident distribution pattern data into a set of distinct zones with regular geometric shapes and sizes. These safety zones are shown for both the existing and ultimate runway configurations.
2. The "No Project" forecast assumes that aircraft activity would be constrained due to the current airfield configuration.
3. Adjusted Zone 1 to match runway protection zones (RPZ) as follows:

Existing Runway 8L Approach: 1,000' x 2,500' x 1,750' Runway 8L Departure: 500' x 1,700' x 1,010' Runway 26R: 1,000' x 2,500' x 1,750' Runway 8R: 1,000' x 2,500' x 1,750' Runway 26L: 1,000' x 2,500' x 1,750'	}	RPZ begins 200' from displaced threshold RPZ begins 200' from runway ends
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**Ontario International Airport
Land Use Compatibility Plan
July 2018 Amendment**

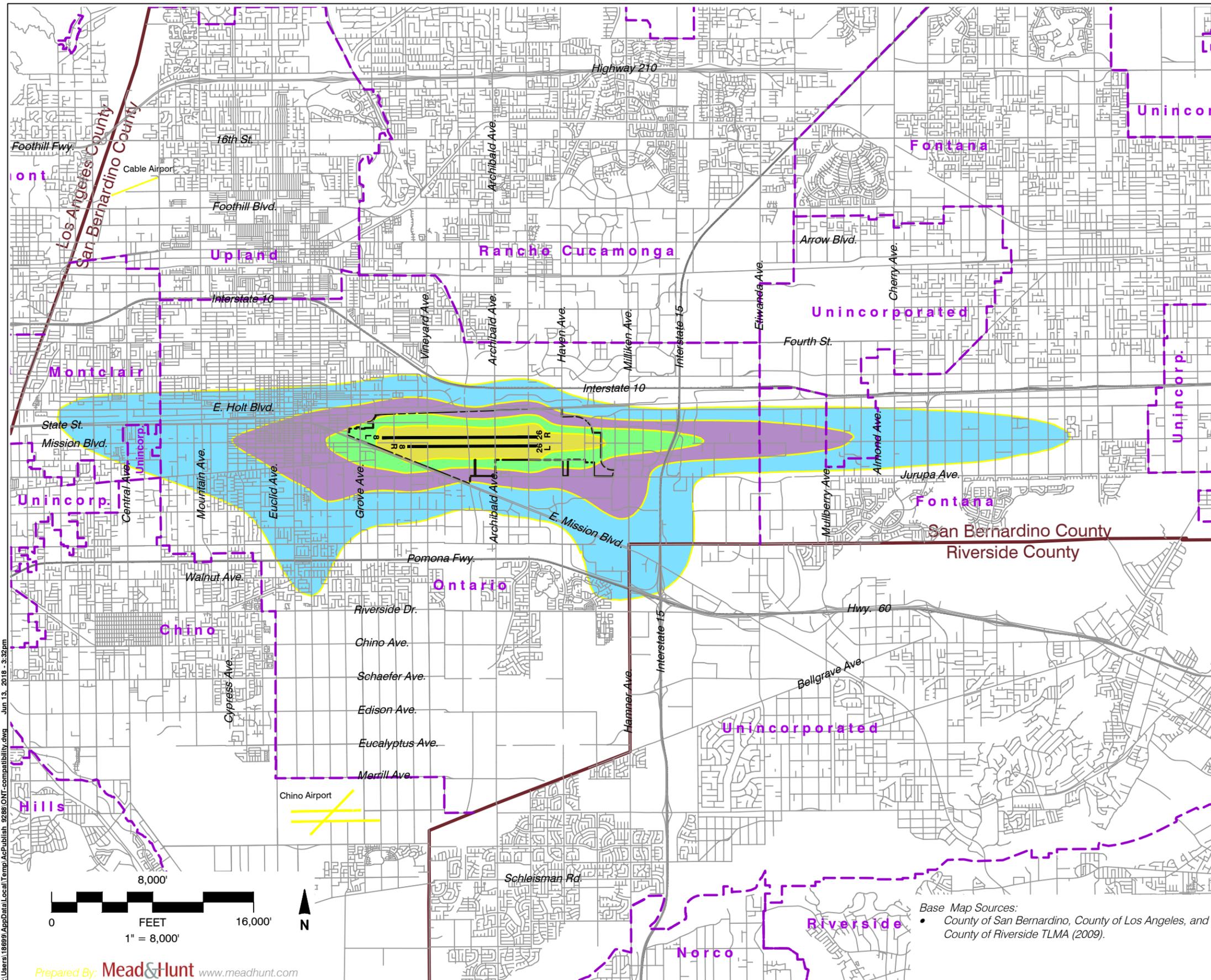
Base Map Sources:
 • County of San Bernardino, County of Los Angeles, and County of Riverside TLMA (2009).



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Prepared By: **Mead&Hunt** www.meadhunt.com

EXHIBIT 2
OIAA RESOLUTION NO. 2021-____
(NOISE IMPACT ZONES MAP)



Legend

- Boundary Lines**
- Airport Property Line
 - County Line
 - - - City Limits
 - Street
 - Existing Runways } Runway 8L-26R
Runway 8R-26L

No Project Noise Contours¹

- 60-65 dB CNEL
 - 65-70 dB CNEL
 - 70-75 dB CNEL
 - 75-80 dB CNEL
- 343,000 Annual Operations²

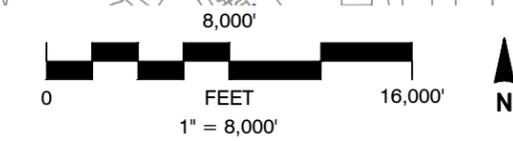
Notes

1. Source: HNTB Technical Memorandum to LAWA, *Noise Contours for LA/ONT Environmental Impact Report* (June 13, 2008).
2. The "No Project" forecast assumes that aircraft activity would be constrained due to the current airfield configuration. The "Proposed Project" forecast is based on the ultimate reconfiguration of the airport - both runways shifting south and east of their current alignments. Annual operations rounded to nearest thousand.



**Ontario International Airport
Land Use Compatibility Plan
July 2018 Amendment**

Base Map Sources:
 • County of San Bernardino, County of Los Angeles, and County of Riverside TLMA (2009).



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