

CITY OF HOUSTON

Annise D. Parker

Mayor



HOUSTON AIRPORT SYSTEM

Mario C. Diaz
Director of Aviation

George Bush Intercontinental ~ William P. Hobby ~ Ellington Airport

April 25, 2013

Mr. Benito De Leon
Director, Office of Airport Planning and Programming
Federal Aviation Administration
800 Independence Avenue SW
Washington, D.C. 20591

Re: Competition Plan Update for New Use and Lease Agreement at
William P. Hobby Airport (HOU)

Dear Mr. De Leon:

We are excited to present to you the Competition Plan Update for a new Airport Use and Lease Agreement ("U&L") or ("Agreement") for execution by the airlines operating at William P. Hobby Airport ("HOU"). We are submitting these documents as required by the Program Guidance Letter (PGL 04-08) as our official Competition Plan Update.

The current use and lease agreement at Houston's William P. Hobby Airport (HOU) expires on June 30, 2015. As such, the Houston Airport System had been considering possible changes and updates to that agreement. Then in early 2012, Southwest approached the City of Houston ("City") with a formal request to commence international service at HOU. As a result, the City and Southwest began discussions to determine the feasibility of such a project and the basic structure of the terms and conditions for a new U&L Agreement and the design, construction, financing, and subsequent rates and charges methodology to be used for enabling international service at HOU, not just for Southwest but for other potentially interested U.S. and foreign airlines as well. Ultimately, the City and Southwest executed a Memorandum of Agreement ("MOA") (Attachment II) for the development of the International Concourse and FIS ("International Facility") on June 5, 2012. Shortly thereafter, a draft of a new U&L Agreement was prepared and reviewed with the airlines and Southwest executed its new U&L on February 25, 2013.

Council Members: Wanda Adams C.O. "Brad" Bradford Helena Brown Andrew C. Burks, Jr. Jack Christie Ellen R. Cohen Stephen C. Costello Jerry Davis
Edward Gonzalez Larry V. Green Al Hoang Mike Laster Melissa Noriega Oliver Pennington James G. Rodriguez Dave Martin
Controller: Ronald C. Green

Enclosed you will find two versions of the new Agreement for your review and comment, 1) Southwest's executed version, which includes a commitment by Southwest Airlines Co. ("Southwest") to design, construct and pay for a new International Facility (Attachment IV), 2) a red-line of Southwest's Agreement to be executed by all other airlines who will have no commitment to develop the International Facility (Attachment V).

The Southwest Agreement is essentially the same as the red-line Agreement to be executed by other airlines, but includes commitments by Southwest Airlines for the design, construction and development of the International Facility at HOU. This U&L was prepared expeditiously to accommodate Southwest's request to add international service to their operations at HOU as early as 2015. This will require the development of an International Facility to be constructed by mid-year 2015. Therefore, there is one provision in the U&L, Article VII – Construction of Improvements, which became effective on the City Controller's countersignature date of February 25, 2013 while the other provisions in the U&L become effective on July 1, 2015 when the current agreement expires. This section covers Southwest's development of the International Facility. To expedite the facility development, Southwest agreed to construct the International Facility with its own capital dollars without participation by the City. The facility will be available to all airlines including Southwest and the City may buy-out the International Facility at any time for the unamortized costs of the project. We have also included a copy of the Memorandum of Agreement ("MOA") (Attachment II) which was executed on June 5th, 2012, between the City of Houston and Southwest, for the development and construction of the International Facility.

Prior to execution of the Agreement with Southwest, a draft of the Agreement was circulated to the other airlines currently serving HOU for review, and individual meetings were held with all those airlines to brief them on the proposed terms and conditions of the draft Agreement and on the terms that will be applicable to all airlines in 2015. The other airlines currently serving HOU have indicated support of the new U&L; thus we have prepared a red-lined version of the Southwest Agreement that will be distributed for execution by the other airlines prior to June 30, 2015.

Essentially, the provisions in the current Use and Lease Agreement with regard to the existing domestic terminal and central concourse remain intact for another 25 years. For your convenience, we have included a comparison of the current Use and Lease Agreement and the new Use and Lease Agreement (Attachment III). Airlines may choose either a 5 year term or a 25 year term. The short term agreement will be renewable up to the expiration of the 25 year agreement. Provisions have been included in this Agreement that are necessary as related to Southwest and its commitment to construct the International Facility. Other airlines will not be required to make the same

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financial commitment. A provision has been added such that all airlines signing a long-term agreement (an agreement expiring June 30, 2040) will have an opportunity to share in the increased concessions revenue attributable to growth in enplanements. This is a win-win effort between the City and the airlines to increase revenues at the airport.

The new International Concourse and FIS will be accounted for separately and charged based on international deplanements. During the time in which Southwest carries the capital costs for construction, they will receive credits for their proportionate share of amortization since they will have already up-fronted the cost of the facility. The City has an option to purchase the Southwest improvements at the unamortized value at any time during the Agreement.

The City will reimburse Southwest via rates and charges credits for any improvement that is made as a result of the project to the existing terminal building or for shell space constructed for the Houston Airport System's ("HAS") occupancy or for lease to third parties approved by HAS.

Title to all the improvements will pass to the City upon the purchase of such items or services by Southwest. To accomplish this transfer of title, an Agreement for Donation and Assignment (Attachment VI) was executed between Southwest and the City on 3/22/2013.

The FAA previously has expressed its satisfaction with the City's Competition Plan, and we believe that these new arrangements will further enhance our competitive situation. The William P. Hobby Airport Terminal was built more than eighty (80) years ago and a renovation of the Terminal Building was just completed in the Fall of 2012. The addition of this new International Facility will provide the following enhancements:

- expanding facilities to add low cost international service options to the Houston metropolitan area;
- increasing airport concessions and retail for originating and connecting passengers;
- improving and expanding the existing security check point; and
- introducing international growth opportunities for all airlines

Indeed, we have a very progressive plan to carry out in the next several months; but, we welcome the challenge to expand service to the Houston community. In 2012, we implemented an enhanced air carrier incentives program to attract new carriers and new service at our airports. Our air service development team is engaged in an ongoing series of route development missions, and in fact has recently met with carriers in China, Turkey, Korea, Vietnam and Taiwan seeking new service. We are pleased to announce that Turkish Airlines commenced service in April 2013 and Air China will commence

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service in July 2013 at IAH. In 2012 alone, we welcomed service on twelve new routes from five different airlines. In 2013, six new routes from four different airlines have been added and seven new routes from six different airlines have been announced for later this year. With international service added to HOU, the traveling public will have more airline and destination choices to meet their air travel needs.

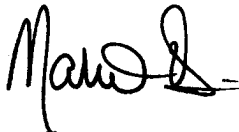
As the global gateway for the Houston metropolitan area, one of the fastest growing regions of the country, our goal is to continually expand air service to targeted cities around the world. HAS continues to pursue all actions that help to make our airports, including both IAH and HOU attractive and cost effective for all existing and future airlines.

We are working diligently to identify opportunities to reduce our overall rates at HAS. In this agreement, we have introduced a commitment to contain our cost structure relative to the area's consumer price index for the airlines who serve HOU through good airport management and financial practices so that airlines can make route commitments and service decisions in a somewhat stable environment.

As you are aware, HAS receives a proportionate share of AIP entitlement funds and is very aggressive in pursuing discretionary AIP funds. As a result, HAS has offset enplanement costs at both IAH and HOU in excess of \$0.50 per enplanement since 2002 and we have received additional discretionary funds to enhance development at our general aviation airport, Ellington Airport.

Thank you, once again, for the important role your office plays in helping us to enhance and improve our airports. We intend to pursue grant funds on various projects in the near future and we look forward to your timely response and any questions or comments you may have regarding this submittal. We cordially invite you to a tour of our airports at any time.

Sincerely,



Mario C. Diaz

cc: Mr. Ben Guttery, FAA
Mr. Andy Icken
Mr. David Feldman
Mr. Ian Wadsworth
Mr. Perry Miller
Ms. Janet Schafer, J.D.

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HOUSTON AIRPORT SYSTEM

Competition Plan Update for New Use & Lease Agreement at William P. Hobby Airport with International Concourse and FIS Project Info (A Public Private Partnership)

April 25, 2013

Attachments
Competition Plan Update
Houston Airport System
April 2013

ATTACHMENT I

(Hobby International Expansion Project and
New Use and Lease Agreement Summary
William P. Hobby Airport)

ATTACHMENT II

(Memorandum of Agreement (MOA)
Between City and Southwest Airlines Co.
Effective June 5, 2012)

ATTACHMENT III

(HOU Current Use and Lease
vs.
New Use and Lease Comparison)

ATTACHMENT IV

(Southwest Airlines Co.
Airport Use and Lease Agreement
Effective July 1, 2015)

ATTACHMENT V

(Draft Airport Use and Lease Agreement for Other Airlines at HOU
Effective July 1, 2015)
Modified Southwest's Agreement for Other Airlines

ATTACHMENT VI

(Agreement for Donation and Assignment
Between City and Southwest Airlines Co.
Effective March 22, 2013)

ATTACHMENT VII

(Conceptual Drawings for International Expansion Project
by Southwest Airlines Co. at
William P. Hobby Airport)

ATTACHMENT I

**(Hobby International Expansion Project and
New Use and Lease Agreement Summary
William P. Hobby Airport)**

Attachment I

Hobby International Expansion Project and New Use and Lease Agreement Summary

William P. Hobby Airport

1. The Project History

The current use and lease agreement at Houston's William P. Hobby Airport (HOU) expires on June 30, 2015. As such, the Houston Airport System had been considering possible changes and updates to that agreement. Then in early 2012, Southwest Airlines Co. (Southwest) approached the City of Houston (City) with a formal request to commence international service at HOU. As a result, the City and Southwest began discussions to determine the feasibility of such a project and the basic structure of the terms and conditions for a new use and lease agreement and the design, construction, financing, and subsequent rates and charges methodology to be used for enabling international service at HOU, not just for Southwest but for other potentially interested U.S. and foreign airlines as well. Ultimately, those discussions resulted in the execution of a Memorandum of Agreement (MOA) (Attachment II), between the City and Southwest effective June 5, 2012 for the development of the necessary infrastructure at no cost to the City or federal government. The City then developed a new use and lease agreement that will be applicable to all HOU airlines in 2015, and also recently negotiated and executed an Airport Use and Lease Agreement (Agreement) with Southwest that combines the provisions of the new use and lease agreement with the provisions specifically applicable to the infrastructure developments to be paid for by Southwest; details are summarized in Paragraph 3 below. Prior to execution of the Agreement with Southwest, a draft of the Agreement was circulated to the other current HOU airlines for review, and individual meetings were held with all those airlines to brief them on the proposed terms and conditions of the draft Agreement and on the terms that will be applicable to all airlines in 2015. Experiencing no major obstacles with the other airlines, the City moved forward with executing the Agreement with Southwest so that design and construction, as well as necessary consultations with other agencies such as U.S. Customs and Border Protection (CBP), could commence.

2. Project Description

Southwest will design, construct, and pay for the William P. Hobby Airport International Expansion Project (Project) which will be immediately transferred to the City. The estimate of Southwest's cost for the Project is \$156 million. The following Project components will be constructed by Southwest at its sole cost, with a current estimated substantial completion date of September 2015:

- International Concourse (two levels, approximately 280,000 square feet)
- Ticketing and queuing area
 - Expanding ticket counter from 100 linear feet to 200 linear feet
- 5 new arrival/departure gates for Boeing 737 and A318-320 aircraft
 - New passenger loading bridges
 - New apron with hydrant fueling
- Security Check Point expansion and relocation

- Six additional security lanes (increasing from 8 to 14)
- Federal Inspection Services (FIS) facility to accommodate 400 to 800 peak hour passengers, designed to current CBP standards
 - Primary/Passport inspection stations – 16
 - International baggage claim – 3 devices, 600 total linear feet

Southwest has selected Corgan Associates, Inc. as the Designer of the Project with a 25% MWBE goal. Southwest will use the construction manager at risk project delivery method for this Project. Eleven prime contractors submitted bid packages, four were shortlisted, and the joint venture Hensel Phelps – CBIC was selected.

Southwest will follow all City programs including Pay or Play, Drug Free Workplace, Civic Art Program, and Prevailing Wages. Southwest will achieve a 25% MWBE and a 3% SBE goal on construction.

3. Use and Lease Agreement Terms

The new Use and Lease Agreement (Attachment IV and Attachment V) becomes effective on July 1, 2015 upon expiration of the existing Use and Lease Agreement which expires on June 30, 2015 while terms relating to the terms and conditions of the Project, mostly found in Article VII of the Agreement, became effective immediately for Southwest. To accommodate Southwest's request for the ability to have international operations at HOU, and to ensure that other potentially interested airlines also would have access, it was important to begin discussions with the airlines early regarding the new international facility and the expiring agreement.

Essentially, for the domestic portion of the terminal facility, the new Agreement is the same as the one currently in effect, with only minor changes as identified in the attached HOU Current Use and Lease vs. New Use and Lease Comparison (Attachment III).

The other current HOU airlines will sign essentially the same Agreement (Attachment V) without the burden of the design and construction requirements. Some minor modifications are necessary, however, as reflected in the red-lined comparison document (Attachment V). In an effort to accommodate the needs of all airlines regardless of their activity level, all airlines will be given the opportunity to choose whether they want to sign a long term use and lease Agreement expiring June 30, 2040 with a minimum term of ten years, or a short term use and lease Agreement, with a five year term, which may automatically renew for successive five year terms, not to extend beyond June 30, 2040. The benefit to the other airlines in executing a long term use and lease Agreement is their right to share a portion of the increased concessions revenue.

The Agreement is written in recognition of the investments to be made in the International Concourse by Southwest. Attachment III shows the primary differences between the old and new agreements. In the Terminal and Central Concourse, airlines will pay for the space they use. In the International Concourse, airlines will pay all of the costs excluding the costs for concession space. For the International Concourse, Southwest will receive credits to the extent it is assessed fees that include amortization of its investments. Southwest also will receive credit for space in the International Concourse used by HAS or third parties and for improvements in the existing Terminal that are necessary parts of the Project, such as the security check point expansion and relocation. Such credits to Southwest will be recovered through adjustments to rates and charges.

In the Agreement, we have introduced a commitment to contain our cost structure relative to the area's consumer price index for the airlines that serve HOU, through good airport management and financial practices so that they can make route and service decisions and commitments in as stable an environment

as is reasonably possible. In recognition of the City's intent to contain airport costs, the airlines have acknowledged the City's right to levy and use PFCs for any lawful purpose, and state their support of the airport's use and level of PFCs for now and in the future (subject of course to FAA approval). The City and HAS of course remain obligated to consult with the airlines as required by law and to follow procedures per 14 CFR Part 158 and other applicable regulations.

4. Competitive Issues

HAS has implemented many actions to enhance competition at its airports and will continue to do so. At HOU, this Project and the Agreement will provide multiple opportunities for new service for both domestic and foreign airlines, and will increase competition for additional international flights to and from Houston as a whole. We anticipate that this will result in decreased fares to the greater Houston area, allowing more Houstonians and visitors the opportunity to participate in air travel. In particular, based on an economic impact study produced by GRA, Inc. and InterVISTAS Consulting, LLC in 2012, projections were made that the international service at HOU would overall reduce airfares, increase competition, and increase travel to and from the greater Houston region – not just at HOU but also at George Bush Intercontinental Airport-Houston (IAH). Additionally, as discussed in greater detail below, the Agreement ensures that airlines other than Southwest also will have access to the international facilities at HOU, and domestic gates also are available for new entry at HOU. The City believes that the Project represents a major pro-competitive step for the Houston airports.

HAS would also like to take this opportunity to update the Department regarding numerous other measures it has taken to ensure and increase competition throughout the airport system. At IAH:

- HAS relocated the Gate Office to a more operationally feasible location;
- HAS formalized the various gate use policies as Operating Instructions;
- HAS developed a "Dispute Resolution Policy" (to date, we have received no complaints);
- HAS developed a standard fee for use of non-preferential gates, ticket counters and common-use facilities;
- HAS initiated a program in the IAH international terminal to assemble and evaluate the amount of airline checked baggage by flight to better manage the corresponding ticket counter assignments and to address TSA baggage screening requirements; and
- HAS additionally has completed a project that included the installation of an in-line baggage screening system.

Through a public private partnership, the renovation of IAH Terminal B has begun; the south side of the Terminal B project is already completed and will likely be opening within the next month. Also at IAH, HAS is in the process of devising a plan to renovate Terminal A and Terminal D (at which common use gates and other facilities are available) to increase capacity and refresh those facilities for domestic and international passengers and airlines respectively. If the new FIS associated with Terminal B project is constructed, this will complement the Central FIS capacity for both Terminals D and E.

Summary of U&L Impact on Nine Key Areas of Statutory Requirements

I. Availability of Gates and Related Facilities

At HOU, a medium hub, there are currently four gates with adjacent apron areas and seven ticket counter positions available for common use in the Terminal and Central Concourse. The Project adds considerably to the existing gate and related facility space, enabling new

service and competition. In the International Concourse, the Project will result in one additional common use gate and associated apron area. There are ticket counters available on the east side of the Terminal Building for any airline desiring to add new international routes. There is opportunity to expand if additional facilities are needed. To date, no carrier has been denied access to facilities at HOU. The Master Plan is being updated and will include an assessment and projections for the International Project at HOU so that HAS can address and plan for future needs. At this time, we anticipate that the Master Plan Update will be completed in September 2013.

II. Arrangements for Leasing and Subleasing

Leases require the Director's prior written consent along with City Council approval. Assignments and sub-leases also require the Director's prior written consent. Generally, HAS expects that consent will be freely given, absent circumstances under which a lease, sub-lease, or assignment would itself create competitive or compliance issues. Additionally, an airline may assign its lease to another corporation if they merge, consolidate or the latter succeeds to the business of the airline. If the airline requests relief of rental obligations, but the City does not approve relief, the airline may assign the Agreement to another airline with a signed U&L Agreement. The assigning airline is still responsible for the lease obligations but if it is in default, the City may collect from the sub-lessee and apply the proceeds to the airline's obligation. Thus far, the City has not denied any requests for subleases or assignments from the airlines at HOU or IAH.

III. Patterns of Air Service

HAS has a highly competitive air service development plan, with an entire team devoted exclusively to growing our domestic and international service. We work closely with airlines and other leaders worldwide in ongoing efforts to bring new service to Houston, and we have recently enhanced our airline incentives plan to help attract that service. Over the last three years, we have proactively met with delegates in China, Turkey, Korea, Vietnam and Taiwan seeking interest and commitments for new air service to the Houston area. In addition, we also welcome and support visits to Houston by representatives of potential new entrants and regularly participate in DOT proceedings to support new carrier entry and expanded service from existing airlines.

We are pleased to report that these efforts have produced many successes, and below is a summary of HAS' results since our last Competition Plan Update (2011) in attracting new air service. Although some flights have since been discontinued by the airlines, many have been added and have continued service to Houston. As noted below, this year alone, six new passenger flights have been inaugurated by four different airlines, and we anticipate more new services before the end of the year.

2011

- United / Continental Airlines IAH to Aspen, Colorado (ASE) – January 2011
- United / Continental Airlines IAH to Reno, Nevada (RNO) – February 2011
- Southwest Airlines HOU to Charleston, South Carolina (CHS) – March 2011
- Southwest Airlines HOU to Greenville-Spartanburg, South Carolina (GSP) – March 2011
- American Airlines IAH to Los Angeles, California (LAX) – April 2011
- United / Continental Airlines IAH to Bakersfield, California (BFL) – April 2011
- United / Continental Airlines IAH to Montreal, Canada (YUL) – May 2011

- United / Continental Airlines IAH to Cedar Rapids, Iowa (CID) – May 2011
- United / Continental Airlines IAH to Grand Junction, Colorado (GJT) – May 2011
- Southwest Airlines HOU to Newark, New Jersey (EWR) – June 2011
- United / Continental Airlines IAH to Hobbs, New Mexico (HOB) – July 2011
- Delta Air Lines – HOU to New York, New York (JFK) – September 2011
- Delta Air Lines – HOU to Cincinnati, Ohio (CVG) – September 2011
- Frontier Airlines – HOU to Kansas City, Missouri (MCI) – November 2011
- United / Continental Airlines IAH to Lagos, Nigeria, (LOS) – November 2011
- United / Continental Airlines IAH to Palm Springs, California (PSP) – November 2011

2012

- Southwest Airlines HOU to Kansas City, Missouri (MCI) – April 2012
- Southwest Airlines HOU to Raleigh-Durham, North Carolina (RDU) – April 2012
- Southwest Airlines HOU to Seattle, Washington (SEA) – June 2012
- United Airlines IAH to Rapid City, South Dakota (RAP) – June 2012
- United Airlines IAH to Jackson Hole, Wyoming (JAC) – June 2012
- Delta Air Lines IAH to New York, New York (La Guardia) (LGA) – July 2012
- Spirit Airlines IAH to Dallas/Ft Worth, Texas (DFW) – September 2012
- Spirit Airlines IAH to Chicago, Illinois (O’Hare) (ORD) – September 2012
- Spirit Airlines IAH to Las Vegas, Nevada (LAS) – September 2012
- Sun Air IAH to Victoria, Texas (VCT) – September 2012
- Southwest HOU to Indianapolis, Indiana (IND) – November 2012
- Southwest HOU to Orange County, California (SNA) – November 2012

2013

- Spirit Airlines IAH to Orlando, Florida (MCO) – February 2013
- Turkish Airlines IAH to Istanbul, Turkey (IST) – April 2013
- American Airlines IAH to New York (JFK) – April 2013
- Southwest Airlines HOU to Charlotte, North Carolina (CLT) – April 2013
- Southwest Airlines HOU to Pittsburgh, Pennsylvania (PIT) – April 2013
- Spirit Airlines IAH to Los Angeles, California (LAX) – April 2013

2013 Announced Service Additions

- United Airlines IAH to Rapid City, South Dakota (RAP) – June 2013
- Southwest Airlines HOU to New York (LGA) – June 2013
- Spirit Airlines IAH to Denver, Colorado (DEN) – June 2013
- Spirit Airlines IAH to Detroit, Michigan (DTW) – June 2013
- Air China IAH to Beijing, China (PEK) – July 2013
- JetBlue Airways HOU to Boston, Massachusetts (BOS) – July 2013
- Frontier Airlines IAH to Wilmington, Delaware (ILG) – July 2013

IV. Gate Assignment Policy

The gate assignment policy at HOU has not changed. Today, all gates may be preferentially leased. We have four common use gates available in the Central Concourse and in the future we also will have one common use gate in the International Concourse. While we have plenty of capacity today, we will be reviewing potential future needs during the Master Plan update process.

V. Gate Use Requirement

In the Central Concourse in order to maintain preferential use of a gate, an airline or its affiliates must operate at least four turns per day per gate on its assigned gates during any given six month period. Operation of aircraft with less than 100 seats count as ½ of a turn. The airline must submit its schedule on the first day of month for the succeeding 90 day period. Other airlines authorized by City may use gates during non-scheduled use by the airline. Scheduled use is limited to 60 minutes before an aircraft is scheduled to arrive and 60 minutes after an aircraft is scheduled to depart.

In the International Concourse, international arrivals requiring the FIS will at all times take precedence over domestic arrivals and departures. There will be one common use gate available for new entrants and Southwest will be leasing four of the five international gates preferentially. Southwest may satisfy its utilization requirement with international or domestic operations in the International Concourse during the initial 24 months of operations. After the initial 24 month start-up period, if the City cannot accommodate another requesting airline's new or additional international arrivals, then the City can require Southwest to shift any domestic operations to accommodate international operations. Based on current needs, traffic projections, and expressions of interest from airlines, we do not envisage any problems in accommodating requests from airlines for new or additional service during the initial 24-month period. We will of course explore all reasonable efforts to ensure access from any airline requesting it.

VI. Financial Constraints

Southwest's desire to initiate and fund the international Project allows HAS a valuable opportunity to reallocate current and future capital for other projects that expand the airport capabilities, to the benefit of all airlines and consumers. For the benefit of the traveling public, this includes one of HAS' top priorities, namely to maintain and return HOU (and other) facilities in the same "opening day fresh" condition they were in on the first day of its operations, as well as additional projects to ensure future capacity, such as the construction of a new parking garage at HOU, as discussed below. Thus the Project not only will enhance competition through the enabling of new international services at HOU and update the existing facilities, it also will provide additional financial flexibility for HAS with respect to other projects.

VII. Airport Controls over Airside and Groundside Capacity

HAS continues to maintain control over airside and groundside capacity. Through an Agreement for Donation (Attachment VI), the City will take title to all of the Project improvements upon the purchase of items or services for the Project. We are in the midst of updating the Master Plans for all three HAS airports to ensure that we have adequate access and facilities for future growth. At HOU, we are assessing and will be incorporating the new international requirements as part of the Master Plan update. At both IAH and HOU, we are constructing capital projects that will improve air service opportunities.

To support the recent and future growth at HOU, HAS will be building a new parking garage and making roadway improvements at an approximate cost of \$55 million and \$12 million respectively. The parking garage will consist of four to five floors containing 2500 plus parking spaces with a third-floor pedestrian bridge to the terminal. The entrance roadway to

the airport will be "squared off" to better accommodate the garage and extend the passenger curbside. Conceptual drawings are included in Attachment VII.

At IAH, we have recently widened some of our taxiway shoulders in preparation for Group VI aircraft and are renovating certain gates in Terminal D to allow bridged gating for Group VI aircraft.

We recognize the importance of maintaining control over airside and ground capacity. The new Agreement continues to maintain those controls, and it is a priority in our ongoing efforts.

VIII. Airport Intentions to Build or Acquire Gates to be Used as Common Facilities

In this Agreement, and in the interests of expanding common facility space and in recognition of the FAA's interest in common usage expansion, we have introduced a new definition - "Common Use" - which is defined as the right granted to an airline, in common with others, for the use of designated space at the airport. Ticket counters, aircraft gates and apron areas which have not been preferentially leased will be designated as common use. In the Central Concourse, there are 25 gates of which 21 are leased preferentially. We currently have four gates with adjacent apron area as well as seven ticket counter positions in the Terminal available for common use at HOU by any existing carrier or new entrant. The term "Joint Use" has also been added to describe portions of the terminal complex that must be shared by the airlines collectively for the conduct of their air transportation business.

A great milestone in this Agreement in terms of capacity enhancement is that language has been added to give the City the right to take back space to accommodate additional airline requests even if an airline has preferential rights to the space. If the City determines that certain space is underutilized, when compared to the then-utilization of other comparable space at the airport, an airline may be required to return space to accommodate other airlines. While we currently have enough space for all the airlines, this provision will prevent the hoarding of poorly used space, yield higher utilization of the existing space; and thus delay the potential need for major costly capital expansion. As noted above, the Project will result in one additional common use gate for international service, -i.e., an overall expansion in common usage.

IX. Airfare Levels as Compared to Other Airports

HAS is continuing to evaluate opportunities to reduce our cost structure in order to enable airlines to charge lower fares for flights to/from Houston. Recently HAS made the difficult and unpopular decision to lay-off or reduce its workforce by approximately 10%. This measure has reduced our overall costs, bringing airline costs to operate at the HAS airports lower.

As part of its overall air service development program, on an ongoing basis HAS pursues the potential for new and expanded low-fare options for Houston travelers, and we are excited by the potential for such service that the Project brings to HOU and to the entire Houston area. Low fare airlines historically have tended to concentrate their services at HOU which, overall, provides travelers with fares close to or less than the the national average in many markets, as reflected in DOT's quarterly Domestic Airfare Report. We anticipate that the Project will have a similar impact on international opportunities at HOU, not only from

Southwest but also other airlines; several non-U.S. airlines have expressed interest in introducing new service at HOU once the Project facilities open. In addition, as noted in Section 4 above, the economic impact study prepared for HOU anticipates that additional low-fare competition at HOU also will encourage the reduction of international fares at IAH. Meanwhile we hope that the return of low-fare carrier Frontier and the start-up of low-fare carrier Spirit at IAH will continue to exert downward fare pressure there.

We are committed to doing everything possible to ensure that our future rates are reasonable, and to encourage existing and competing airlines to serve the Houston market at reasonable fares. Notably we participated recently in a DOT proceeding that will award slot-exemptions at Washington's Reagan National Airport, in the hopes of obtaining HOU-DCA service at fares considerably lower than our existing IAH-DCA service. In addition, in this Agreement we have introduced a commitment to contain our cost structure relative to the greater Houston area's consumer price index for the airlines that serve HOU, through good airport management and financial practices, so that airlines can make route commitments and service decisions in as stable an environment as reasonably possible.

5. Summary

HAS remains committed to supporting the growth of airlines that have made commitments to serve the Houston market and to expanding overall access for all interested airlines, while continuing to actively pursue new airline service. HAS believes that its approach to achieving these goals – including the construction of a new international gateway at no cost to the City or the federal government – supports the needs of all airlines serving its airports, while at the same time enhances the opportunities for new airlines to initiate service into the Houston market. Furthermore, HAS believes that the path implemented in the late 1990's and continuing through today in facility development and business terms in our agreements is a successful one that serves as a solid foundation for the continued growth and expansion of competitive air service for the traveling public.

ATTACHMENT II

**(Memorandum of Agreement (MOA)
Between City and Southwest Airlines Co.
Effective June 5, 2012)**

C-24757
WCA

MEMORANDUM OF AGREEMENT
HOBBY INTERNATIONAL EXPANSION PROJECT

This Memorandum of Agreement (“MOA”) is entered into between the City of Houston, Texas (“City”) and Southwest Airlines Co. (“Southwest”) (the “Parties”) regarding the proposed William P. Hobby Airport (“Hobby”) International Expansion Project as more specifically detailed in Article II (“Project”).

The Parties agree that there is a significant need for the development of additional facilities at Hobby to handle aircraft, passengers, and cargo departing to, and arriving from, international destinations on scheduled and chartered flights. Consequently, the Parties agree to the following.

1.0 Effective Date, Term and Use & Lease Agreement

- 1.1 This MOA will be effective on the date of countersignature by the City Controller after adoption by City Council and signature by Southwest, and shall expire twenty-five years from the Date of Beneficial Occupancy (“DBO”) of the Project unless it has been superseded by an amendment to the existing Use and Lease (“U&L”) Agreement between the City and Southwest or by a new U&L Agreement between the City and Southwest, in which case this MOA shall be of no further force or effect.
- 1.2 The Parties agree to negotiate in good faith to execute a new or amended U&L Agreement prior to the commencement of construction of the Project. Where City consent is required, the City shall not unreasonably withhold consent. Southwest shall have no obligation to commence construction of the Project in the absence of a fully executed new or amended U&L Agreement, but may choose to do so on the basis of this MOA and a mutually agreed Project definition manual with spatial, performance, functional and technical requirements for the Project (“Project Definition Manual”).
- 1.3 If there is no mutual agreement on i) a Project Definition Manual and ii) a new or amended U&L Agreement, and Southwest decides not to commence construction, the City agrees to purchase whatever design documents Southwest has already prepared, for the actual cost of the preparation of the design documents, with full rights to use such documents on an “AS-IS” basis. The cost of that purchase will be reflected as a credit to Southwest in the normal Hobby rates, fees and charges under the existing U&L Agreement. The City may include such design costs in the rate base for the ensuing fiscal year.

2.0 Project

- 2.1 The Project consists of i) five new international gates capable of handling narrow-body transport category aircraft (e.g., Boeing 737 series and Airbus 320 series); ii) a Federal Inspection Service facility, together with all necessary space and equipment required by the Department of Homeland Security, Customs and Border Protection

(“FIS”); iii) associated ramp and extended hydrant fueling system improvements, apron work and drainage; iv) related security checkpoint enhancements; v) all associated enabling projects including, but not limited to, the Southwest ticket counter and office relocation, and the Houston Airport System (“HAS”) office relocation; vi) all related and applicable costs, fees and taxes, including without limitation planning, legal, construction management, construction, materials, Project management fees and permit fees; vii) reimbursement to the City of the third party consultant costs for developing the Project Definition Manual; and viii) reimbursement to the City of the third party consultant costs for the City liaison associated with construction of the Project.

3.0 Project Planning and Management

- 3.1 The City will plan the Project. The City will develop and deliver to Southwest the Project Definition Manual.
- 3.2 Southwest will design and construct the Project following mutual agreement on the Project Definition Manual, subject to the conditions in Section 1.3 above.
- 3.3 The final design and construction documents must be approved by the Director of HAS prior to the commencement of construction.
- 3.4 Upon completion of the Project Definition Manual, the Parties will establish a Project budget, which is currently estimated not to exceed \$100 million, and Project schedule, which currently is estimated to have construction commencing in the third quarter of 2013, and DBO in the fourth quarter of 2015. The City will grant Southwest such construction easements and licenses as necessary for construction of the Project.
- 3.5 The City will appoint a liaison for this Project who will review all schedules, the sequencing of all work, and coordinate on matters related to the Project between Southwest and the City. Southwest agrees to reimburse the City for the cost of the City liaison and third party consultants for developing the Project Definition Manual, as provided in Section 2.1. The City liaison will cooperate with Southwest in its efforts to expedite the issuance of any required City permits for the Project.

4.0 Project Delivery

- 4.1 Southwest will design and construct the Project, at its own cost, as a “turnkey” project. At DBO, the City will operate and maintain the Project.
- 4.2 Southwest will use a “brick-by-brick” or analogous method to deliver the Project to the City with the objective of saving sales taxes on construction and other materials as permitted by applicable law.
- 4.3 Upon completion reasonably satisfactory to the City, Southwest will convey title to the Project to the City as necessary to be free and clear of any liens or encumbrances of any type, with the exception of the hydrant system extension which will remain

the property of Southwest until or unless the entire system is purchased by the City. The costs for the hydrant system will be excluded from capital costs used to calculate rates under this MOA.

- 4.4 Southwest's design and construction of the Project will be subject to, and performed in compliance with, all applicable local, state and federal laws, regulations and requirements, including but not limited to those of the U.S Department of Homeland Security, U.S. Customs and Border Protection, Transportation Security Administration, Federal Aviation Administration, the HAS, as well as City Ordinances and Codes.
- 4.5 Southwest will comply with City ordinances, policies and Executive Orders, including but not limited to MWBE good faith goal requirements, Hire Houston First, Pay or Play, Drug Free Workplace Policy, Civic Art Program, and Prevailing Wages.

5.0 Project Financing

- 5.1 Southwest shall provide all capital, and be responsible for all costs of the Project. The City shall have no responsibility for funding the Project. The City shall not be required to incur any debt in connection with the Project and shall not be required to repay Southwest or any third party for any financing or funding in relation to the Project.
- 5.2 At any time after final completion of the Project, the City may buy-out Southwest's investment in the Project for the then-unamortized cost of the Project calculated at the City's imputed amortization rate over a twenty-five (25) year period as defined in the U&L Agreement. Should the City buy-out Southwest's investment, thereafter Southwest will be responsible for the payment of its proportionate share of HAS capital charges and will have the same obligation as any other carrier using and operating in the Project with regard to any and all rental charges.

6.0 Use of the International Terminal

- 6.1 The Project will include five new international gates. Southwest will have the right to use four of the five new international gates on a preferential basis so long as Southwest conducts an average of at least four operations per day on each gate. An "operation" is defined as a combination of one arrival and one departure at an international gate. With regard to these four gates, the City may allow other international air carriers to use these gates at such time as a given gate is not required for Southwest's operations in accordance with a thirty day advance written schedule delivered by Southwest to the Director of HAS. An operation using an aircraft with fewer than one hundred (100) seats will be counted as one-half an operation.
- 6.2 The FIS facility and one of the five new international gates in the Project shall be common use facilities.

7.0 Rates and Charges for the New International Facilities

- 7.1 The City will assess rent to all users of the new international facilities. Gate rent for Signatory users will be calculated by adding 1) the operation and maintenance costs; plus 2) capital costs (based on the amortization of Southwest's "Investment in the Project") at a rate equal to the City's imputed rate and a term of 25 years. For this purpose, Southwest's "Investment in the Project" will be the cost of the Project less any credit Southwest receives under the applicable U&L Agreement for improvements to existing terminal space and less the costs associated with the hydrant system extension. Gate Rent Rates will be determined by 1) plus 2) above, divided by 750,000, representing the base estimate of deplaning international passengers in year one. Such amount will be adjusted at the end of the fiscal year following DBO to reflect the actual deplaned international passengers. In each subsequent fiscal year, the actual deplaned passengers for the immediately preceding fiscal year will be used to calculate Gate Rent Rates.
- 7.2 Rent for use of the FIS by Signatory users will be calculated adding the operation and maintenance costs for the FIS and the Southwest Investment in the FIS, divided by the international deplaned passengers, consistent with 7.1 above.
- 7.3 Rent by Non-Signatory users of these facilities will be Signatory rent plus twenty-five percent (25%).
- 7.4 Southwest's rates for use of the new international facilities will not include capital cost portions of either international gate rent or FIS rent. Southwest will also be credited the capital costs portion of the rent of all other users of the new international gates against Southwest's rates, fees and charges at Hobby. At the end of the twenty-five year amortization schedule or upon a buy-out of Southwest's investment by HAS, such capital credit will cease and rent will be payable in accordance with Section 5.2 above. The capital portion of all FIS and the common use gate rent shall be credited to Southwest, and such credits shall reduce Southwest's amortization, and will thereby reduce the amount required for a City buy-out.
- 7.5 Southwest will pay its pro rata share of operation and maintenance costs upon DBO of the Project. At least three months prior to the end of the City's fiscal year, the Director of HAS will submit to the airlines operating at Hobby, for review and consultation, the airport operating budget for the coming year. The budget will incorporate the level of service standards agreed to by the Parties with respect to staffing, cleaning and maintenance of the Project.
- 7.6 The Project will result in certain improvements to existing terminal space, such as the security checkpoints and associated common use space, and as a result, will be allocated to existing terminal cost centers. The line of demarcation between the existing terminal cost centers and the Project will be defined as the Project is

planned and designed. Southwest will be credited for such improvements to existing terminal space upon DBO, with such capital costs to be included in rates, fees and charges under the then applicable U&L Agreement.

8.0 Incremental Inside Revenue Credit – Long-Term Signatory Carriers

- 8.1 After DBO, or upon execution of a new or amended U&L Agreement, all Long-Term Signatory Carriers shall receive an “Incremental Inside Revenue Credit”, to be calculated as follows: the number of enplaning passengers at Hobby exceeding the baseline enplaned passengers, multiplied by the total Inside Revenue, divided by the number of total enplaning passengers at Hobby. The baseline shall be determined as the number of total annual enplaned passengers at Hobby in the twelve months immediately prior to DBO for the Project. The calculation for Incremental Inside Revenue Credit shall be adjusted annually. The total amount of Incremental Inside Revenue Credit in any given year shall be capped at \$3.9 million but will cease in 2040.
- 8.2 “Inside Revenue” is defined to be rental revenue that HAS actually receives from all inside concessions (defined as food, beverage, news, gifts, other retail, duty free, telephone, advertising and other miscellaneous concessions) throughout the Hobby terminal building, and shall not include outside concessions such as parking, rental cars and ground transportation.

9.0 Use and Lease Agreement Extension

- 9.1 The current Southwest U&L Agreement at Hobby expires on June 30, 2015. Prior to issuing a Notice to Proceed with the Project, the Parties will negotiate in good faith an extension to the existing U&L Agreement or a new U&L Agreement. It is acknowledged that the terms of a new or amended U&L Agreement may be different from the terms and obligations under this MOA, in which case, the terms and obligations of the U&L Agreement will prevail.
- 9.2 A “Signatory Carrier” means an airline that leases at least one hold room, four ticket counter positions and five hundred (500) square feet of operations space or the financial equivalent, at Hobby, and executes a U&L Agreement with HAS for a minimum of five years.
- 9.3 All Signatory Carriers must be either a Long-Term or a Short-Term Signatory. A “Long-Term Signatory Carrier” means a Signatory Carrier that is party to a U&L Agreement that does not expire until at least 2040. A “Short-Term Signatory Carrier” means a Signatory Carrier that is not a Long-Term Signatory Carrier.
- 9.4 Non-Signatory Carriers will pay a premium of twenty-five percent (25%) on all rates and charges as set forth in Chapter 9 of the City's Code of Ordinances. For the purpose of calculating annual rates, fees and charges, all premiums paid by Non-Signatory Carriers will be credited to reduce the Airline requirement in each appropriate cost center.

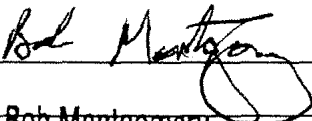
10.0 Additional Items

- 10.1 It is the intent of the Parties that this MOA will be followed by a Project Definition Manual to be mutually agreed to by the Director (after approval as to form by the City Attorney) and Southwest; and a new or amended U&L Agreement prior to the commencement of construction of the Project.
- 10.2 This MOA is binding upon the Parties, subject to negotiating in good faith definitive agreements based upon these terms.
- 10.3 The Parties acknowledge that this MOA is subject to all city, state and federal laws and regulations, including FAA regulations, grant assurances, and policies.
- 10.4 The Parties have executed this MOA in multiple copies, each of which is an original

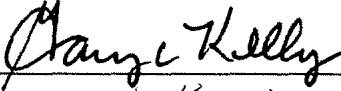
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Signatures:

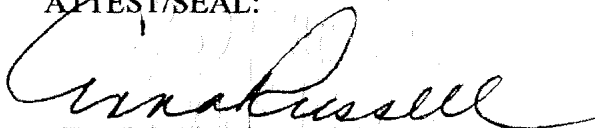
ATTEST/SEAL:

By: 
Name: Bob Montgomery
Title: Vice President - Airport Affairs

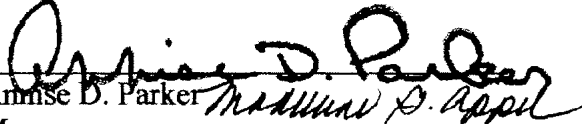
SOUTHWEST AIRLINES CO.
"Southwest"

By: 
Name: GARY L. KELLY
Title: CHAIRMAN PRESIDENTS FCES
TAX ID No.: 74-1563240

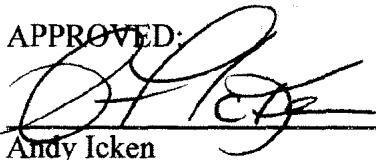
ATTEST/SEAL:


Anna Russell
City Secretary

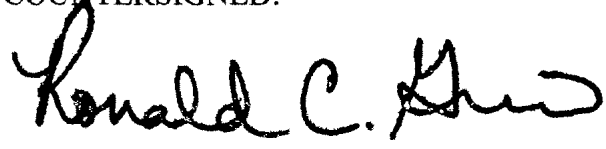
CITY OF HOUSTON, TEXAS
"City"

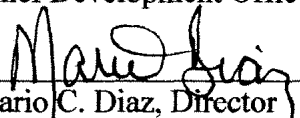

Annise D. Parker
Mayor

APPROVED:



Andy Icken
Chief Development Officer

COUNTERSIGNED:


Ronald C. Green
City Controller


Mario C. Diaz, Director
Houston Airport System

APPROVED AS TO FORM:


David M. Feldman
City Attorney
L. D. File No. _____

DATE COUNTERSIGNED:

6-5-12

ATTACHMENT III

**(HOU Current Use and Lease
vs.
New Use and Lease Comparison)**

Attachment III
HOU Current Use and Lease vs. New Use and Lease Comparison
4/25/2013

HOU Use and Lease Provisions	Previous Use and Lease (Competition Plan 2000 & Updates 2002, 2004, and 2011)	Reference Location	New HOU Agreement	Reference Location
<p>Background Info This information is not in the Airport Use and Lease Agreement but rather in the Memorandum of Agreement (MOA).</p>			<p>Using a public private partnership methodology, the City and Southwest developed an MOA which was passed by City Council on May 30, 2012, for Southwest to construct a facility at William P. Hobby Airport (HOU) to conduct international operations, the "William P. Hobby Airport International Expansion Project" (Project). Southwest agreed to fund the entire Project at a cost of approximately \$100 million. Southwest has since revised its cost estimate to approximately \$156 million. The City will not have any responsibility to fund the project. Southwest will perform the design and construction of the Project with an estimated completion date of September 2015. The City will have the option to buy out the then-unamortized cost of the project at any time.</p>	<p>Attachment II - "Memorandum of Agreement"</p>
	<p>Airport Use and Lease Agreement</p>	<p>Contract Cover Sheet</p>	<p>No change but includes construction provisions for Southwest's development of the new international concourse.</p>	<p>Contract Cover Sheet Article VII</p>
<p>Execution Date</p>	<p>Same as Effective Date (9/25/2008)</p>	<p>Page 1 - 1st Paragraph</p>	<p>City Controller Countersignature Date 02/25/2013 Article VII begins</p>	<p>Page 1 - 1st Paragraph Definition #25 - "Execution Date"</p>
<p>Effective Date</p>	<p>City Controller Countersignature Date 09/25/2008</p>	<p>Page 1 - 1st Paragraph</p>	<p>HOU U&L - Begins 07/01/2015 (the day after the current agreement expires) Article VII - Construction begins 02/25/2013</p>	<p>Definition #21 - "Effective Date"</p>
<p>Term</p>	<p>09/25/08-06/30/15 (Almost 7 Years)</p>	<p>Section 3.01</p>	<p>07/01/2015-06/30/2040 (25 Years) The other airlines will be offered either of the following terms: 1. A Long Term Airport Use and Lease Agreement (initially with a 25 year term) expiring on 6/30/2040 with at least ten years remaining on the term. Includes no requirement for development; but will receive a share in concession revenues like any other long term signatory airline 2. A 5 year term with no requirement for development and no sharing of concession revenues</p>	<p>Section 3.01 Section 3.02 Section 3.03</p>

Attachment III
HOU Current Use and Lease vs. New Use and Lease Comparison
4/25/2013

HOU Use and Lease Provisions	Previous Use and Lease (Competition Plan 2000 & Updates 2002, 2004, and 2011)	Reference Location	New HOU Agreement	Reference Location
Term: (cont.)			<p>If the project is not completed by 12/31/2016, the Director may extend the completion date up to 12/31/2018; otherwise, the agreement terminates. In such event, at the discretion of the Director, Southwest shall restore the site to its original condition.</p> <p>Upon early termination or expiration, Airline's rights, authority, and privileges cease.</p> <p>The MOA that was executed between the City and Southwest for the construction of the Int'l expansion project is terminated upon DBO of the Int'l facility.</p>	
Term Extensions	Mo-to-Mo per Director with 30 Days Written Notice to Airline	Section 3.01	<p>No Change.</p> <p>The short term agreement will be an automatic 5 year renewal unless noticed by either party but not to exceed June 30, 2040. The Mo-to-Mo provision, as in the previous U&L, will be in effect after the 25 year term expires.</p>	Section 3.01 A
Terminal & Concourse Space: Exclusive, Preferential, Common Use	<p>Exclusive - Ticket counter & ticket queuing, operations, offices, and Bag Make-up</p> <p>Preferential - Holdroom areas (gate, gate podium, loading bridges, and aircraft parking)</p> <p>Common - Bag Claim , Bag Make-Up, common hallways, tug and cart circulation areas</p> <p>20/80 Formula = 20% equally among airlines, 80% proportionate to enplanements</p>	<p>Section 4.01 Pre-construction of Project 417F Terminal Renovation</p> <p>Section 4.02 Post-construction of Project 417F Terminal Renovation</p>	<p>A distinction between joint use (airline shared use space) and common use space (assignable) has been made. There is less exclusively leased space and more common use space allowing for better accommodation of all airlines needing space for growth providing the City more flexibility in assigning space that is not fully utilized.</p> <p>Exclusive - Ticket service offices (TSO), bag service offices (BSO), operations and office space</p> <p>Preferential - Ticket counter & ticket queuing, holdroom areas (gate, gate podium, loading bridges, and aircraft parking)</p> <p>Common - Non-preferential or unassigned City ticket counter & ticket queuing, holdroom areas (gate, gate podium, loading bridges, and aircraft parking)</p> <p>Joint Use - Bag Claim , Bag Make-Up, common hallways, tug and cart circulation areas</p> <p>20/80 Formula = 20% equally among airlines, 80% proportionate to enplanements</p>	<p>The text descriptions were removed from</p> <p>Section 4.01 - Terminal Complex Leased Premises and</p> <p>Section 4.02 - Terminal Apron Areas but are reflected in Exhibit C</p>

Attachment III
HOU Current Use and Lease vs. New Use and Lease Comparison
4/25/2013

HOU Use and Lease Provisions	Previous Use and Lease (Competition Plan 2000 & Updates 2002, 2004, and 2011)	Reference Location	New HOU Agreement	Reference Location
Minimum Lease Requirements	None	N/A	In order to be a Signatory Airline, an airline must lease at least one holdroom in the Central Concourse, four ticket counter positions, and 500 square feet of operations space or the financial equivalent and sign a Use and Lease Agreement.	Definition #50 - "Signatory Airline"
Minimum Gate Use (MGU)	To Maintain Preferential Use 4 Flights per day per gate Flight = 1 Arrival + 1 Departure	Section 4.04 A & D	To Maintain Preferential Use - 4 Turns per day per gate assigned during any given six month period. An aircraft with < 100 seats = 1/2 turn. Airline must submit its schedule on first day of month for succeeding 90 day period. Other airlines authorized by City may use gates during non-scheduled use by Airline. Scheduled use includes 60 minutes before aircraft is scheduled to arrive and 60 minutes after an aircraft is scheduled to depart. West Concourse Gates International arrivals requiring FIS at all times takes precedence over domestic arrival and departure operations in the West Concourse. There will be one common use gate available for new entrants and Southwest will be leasing 4 of the five international gates preferentially. Southwest may satisfy its utilization requirement with international or domestic operations in the West Concourse for 24 months following DBO. After the initial 24 month start-up period, if the City cannot accommodate a requesting airline's new or additional international arrivals, then City can require Southwest to shift any domestic operations to accommodate international operations.	Section 4.03 Definition #54 - "Turn"
MGU Count Inclusions/Exclusions	Includes: Airline and airlines operating carrier that is not the ticketing carrier Excludes: Code-share partners, charters, or other non-airline operations	Section 4.04 B	Includes: Scheduled air carrier that is a parent or a subsidiary of Airline or operates under the same trade name as Airline and uses same livery as Airline (Affiliate)	Definition #1 - "Affiliate"
MGU Test Period	Monthly	Section 4.04 B	During any 6 month period	Section 4.03 B

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HOU Use and Lease Provisions	Previous Use and Lease (Competition Plan 2000 & Updates 2002, 2004, and 2011)	Reference Location	New HOU Agreement	Reference Location
Space Take-Back Rights	Gate plus proportionate holdroom, ticket counter, ticket office and other airline space	Section 4.03 D	Gates can be taken back if MGU is < 4 turns per day. If all gates are fully utilized, language was added for City to assess all airlines' needs and utilization, then upon 60 days notice to airline if City deems space is underutilized based on the then-normal utilization, City may recapture portions of under-utilized Leased Premises to accommodate requesting airlines.	Section 4.03 C
Assignments & Subletting	<p>Assignments: Requires Director's prior written consent. Airline may assign to another corporation if they merge, consolidate or succeed to the business of the airline. If airlines request relief of rental obligation, but City does not approve relief, airline may assign the agreement to another airline with a signed U&L Agreement.</p> <p>Subletting: Requires Director's prior written consent. Airline is still responsible but if in default, City may collect from sub-lessee and apply to airline's obligation.</p>	Section 13.01	No Change	Section 13.01
MII Clause	None	N/A	None	N/A

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4/25/2013

HOU Use and Lease Provisions	Previous Use and Lease (Competition Plan 2000 & Updates 2002, 2004, and 2011)	Reference Location	New HOU Agreement	Reference Location
<p>Maintenance Duties (Performance) *IV B space was airline constructed space that existed prior to construction of the then-current terminal renovation (Project 417F) but that was to be demolished as part of Project 417F.</p>	<p>Exclusive Use Areas Airline: Airline constructed/installed improvements Janitorial Anything not provided by City City: Structural maintenance of City constructed facilities City installed equipment & systems Baggage handling system HVAC thru City installed systems Electric power for interior lighting Exterior cleaning of building Window cleaning exterior Preferential Use Areas Airline: Airline improvements Janitorial Anything not provided by City City: Structural maintenance of City constructed facilities City installed equipment & systems HVAC thru City installed systems Electric power for interior lighting & re-lamping Exterior cleaning of building Window cleaning interior/exterior</p>	<p>Section 8.01 Section 8.02 Exhibit I</p>	<p>Maintenance transitioned to owner vs. installer of improvements. IV B space no longer exists. Exclusive Use Areas Airline: Airline owned improvements Janitorial Anything not provided by City City: Structural maintenance of City owned facilities City owned equipment & systems HVAC thru City installed systems Electric power for interior lighting Exterior cleaning of building Window cleaning exterior Preferential Use Areas Airline: Airline owned improvements Janitorial Anything not provided by City City: Structural maintenance of City owned facilities City owned equipment & systems HVAC thru City installed systems Electric power for interior lighting & re-lamping Exterior cleaning of building Window cleaning interior/exterior</p>	<p>Section 8.01 Section 8.02 Exhibit I</p>

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4/25/2013

HOU Use and Lease Provisions	Previous Use and Lease (Competition Plan 2000 & Updates 2002, 2004, and 2011)	Reference Location	New HOU Agreement	Reference Location
Maintenance Duties (cont.)	<p>Common, Public, Joint and Security Areas Airline: Airline constructed or installed improvements *IV B Areas - All responsibility City: Structural maintenance of City constructed facilities City installed equipment & systems Baggage handling system HVAC thru city installed systems Electric power for interior lighting Exterior cleaning of building Window cleaning inside/outside M&O of City systems Area lighting Janitorial</p> <p>Passenger Loading Bridges and Baggage Handling Systems Airline: Janitorial City: Routine and scheduled maintenance and exterior cleaning for City owned equipment Preferential Use Terminal Apron Area Repair FOD damage Remove grease, oil, and fuel spills with ramp scrubbing equipment</p>	<p>Section 8.01 Section 8.02 Exhibit I</p>	<p>Common, Public, Joint and Security Areas Airline: Airline owned improvements City: Structural maintenance of City owned facilities City owned equipment & systems Baggage handling system HVAC thru city installed systems Electric power for interior lighting Exterior cleaning of building Window cleaning inside/outside M&O of City systems Area lighting Janitorial</p> <p>Passenger Loading Bridges and Baggage Handling Systems Airline: Janitorial City: Routine and scheduled maintenance and exterior cleaning for City owned equipment Preferential Use Terminal Apron Area Repair FOD damage Remove grease, oil, and fuel spills with ramp scrubbing equipment</p>	<p>Section 8.01 Section 8.02 Exhibit I</p>
Small, Minority & Women Owned Business Enterprise Goals (S/MWBE)	<p>N/A No airline construction was included in the prior agreement.</p>	<p>N/A</p>	<p>Southwest Construction for the International Facility Project Professional Services - 25% S/MWBE Construction -25% MBE Goal and 3% SBE Goal</p>	<p>Section 7.01 C</p>
Airport Concessions Disadvantaged Business Enterprise (ACDBE)	<p>N/A Concessions are managed by the City and ACDBE goals are included in the City concessions program.</p>	<p>N/A</p>	<p>N/A Concessions are managed by the City and ACDBE goals are included in the City concessions program.</p>	<p>N/A</p>
Favored Nations Clause	<p>Airline shall have the same rights, privileges, and fees as granted to any other airline.</p>	<p>Section 14.08</p>	<p>Restated with same intent. Airline shall have the same rights and privileges with no more favorable terms than any other airline.</p>	<p>Section 14.08</p>

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HOU Current Use and Lease vs. New Use and Lease Comparison
4/25/2013

HOU Use and Lease Provisions	Previous Use and Lease (Competition Plan 2000 & Updates 2002, 2004, and 2011)	Reference Location	New HOU Agreement	Reference Location
Airport Cost Centers and Structure	A. Terminal Building 1. Central Terminal Bldg. 2. Concourse A (Demolished) 3. Concourse C (Demolished) 4. Central Concourse B. Terminal Apron 1. Concourse A&C Apron (Demolished) 2. Central Concourse Apron Area C. Airfield D. Other Buildings and Areas E. Parking and Ground Transportation Areas	Definition #4 - "Airport Cost Center"	A. Central Terminal/Central Concourse B. Central Concourse Apron Area C. International Facility 1. West Terminal/West Concourse and West Concourse Apron 2. FIS D. Airfield E. Other Buildings and Areas F. Parking and Ground Transportation Areas G. Terminal Roadways	Definition #6 - "Airport Cost Center"
Asset Useful Life	New & Reconstruction - 25 Years Renovation - 20 Years Loading bridges and baggage equipment - 15 Years	Definition #31 - "Useful Life"	No Change	Definition #56 - "Useful Life"
Rate Methodology by Cost Center	Compensatory but Airfield is offset by GA revenues and fuel flowage revenues.	Definition #4 - "Airport Cost Centers"	"Compensatory" is no longer stated in the lease. The agreement is a hybrid with some residual and compensatory rate making characteristics.	Definition #6 - "Airport Cost Centers"
Calculations of Rentals and Fees	Based on HAS estimates of costs/expenses and passengers or landed weight for rate-setting but reconciled to actual following completion of annual audit	Section 6.01	No change in practice but includes minor wording clarifications.	Section 6.01
Central Terminal/Central Concourse Rental Rates	\$2.50 Base Capital Charge for fully amortized as of 7/1/98 Amortization (if not fully amortized) O&M - Direct & Indirect Interest on cost of land System Costs 50% of annual O&M and amortization of Terminal Roadways Replenishment of Renewal/ Replacement Fund	Section 6.02	System costs are incorporated into the definition of O&M expenses in new agreement. Interest on cost of land was removed and is now only included in the Airfield cost center. Exhibit J was created to identify the space. Central Terminal/Central Concourse Rental Rates - No change in practice but includes minor wording clarifications. \$2.50 Base Capital Charge per Exhibit J Amortization (if not fully amortized) O&M - Direct & Indirect 50% of annual O&M and amortization of Terminal Roadways Replenishment of Renewal/ Replacement Fund	Section 6.02 Definition #41 - "Operation and Maintenance Expenses" or "O&M Expenses"

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4/25/2013

HOU Use and Lease Provisions	Previous Use and Lease (Competition Plan 2000 & Updates 2002, 2004, and 2011)	Reference Location	New HOU Agreement	Reference Location
Central Concourse Apron Area Rental Rates	\$.50 Base Capital Charge as of 7/1/98 for fully amortized. Amortization (if not fully amortized) O&M - Direct & Indirect Interest on cost of land System Costs Replenishment of Renewal/ Replacement Fund	Section 6.05	Central Concourse Apron Rental Rates Amortization (if not fully amortized) O&M - Direct & Indirect Replenishment of Renewal/ Replacement Fund	Section 6.03
Central Terminal/Central Concourse Passenger Loading Bridge Charges	O&M Amortization Total costs divided by # loading bridges	Section 6.03	No change in practice but includes minor wording clarifications. O&M Amortization Less Non-signatory premiums Total costs divided by # loading bridges = loading bridge charge	Section 6.06
Central Terminal/Central Concourse Baggage Handling System Equipment Charges	Baggage Claim Equipment and Outbound Baggage Equipment O&M - Direct and indirect Amortization Less non-signatory premiums = costs allocated to each signatory airline	Section 6.04	Baggage Claim Equipment and Outbound Baggage Equipment No change in practice but includes minor wording clarifications. O&M - Direct and indirect Amortization Less non-signatory premiums = costs allocated to each signatory airline based on Joint Use 20/80 formula	Section 6.07 A Section 6.07 B Section 6.09

Attachment III
HOU Current Use and Lease vs. New Use and Lease Comparison
4/25/2013

HOU Use and Lease Provisions	Previous Use and Lease (Competition Plan 2000 & Updates 2002, 2004, and 2011)	Reference Location	New HOU Agreement	Reference Location
West Terminal/West Concourse and West Concourse Apron Area Fees (New)	N/A	N/A	1. O&M - Direct & Indirect 2. Amortization of Capital Improvements 3. Amortization of WN Investment 4. Annual replenishment of Renewal/ Replacement Fund West Terminal/West Concourse Concessions Space Costs of concession space will be removed and not billed to airlines but paid by HAS. Add 1, 2 & 4 above, less apron costs divided by total sf of West Terminal/West Concourse = Rate p.s.f. for West Terminal/West Concourse building x sf of concession space = Concession space costs attributable to HAS West Terminal/West Concourse Ticketing, Queuing, Office Space Add 1 thru 4 above excluding apron costs divided by the sf of the building x total ticketing, queuing and office sf for each FY.	Section 6.04 Section 6.18
West Terminal/West Concourse and West Concourse Apron Area Fees - New Int'l Project Space (New) (cont.)	N/A	N/A	West Terminal/West Concourse and West Concourse Apron Area Add 1 thru 4 above subtract non-signatory airline premiums, concessions space, and the ticketing, queuing, and office space, and per use charges paid by signatory airlines, and the excess of the Central Concourse Average Gate Costs over the Long Term Signatory Airline's total fees divided by 750,000 (initial base yr. estimate of deplanements) = base \$ per deplanement x number of airline's deplanements in past month = amount payable by airline to City. Future year base number of deplanements will be based on actual Int'l deplanements.	Section 6.04 C Section 6.18 B

Attachment III
HOU Current Use and Lease vs. New Use and Lease Comparison
4/25/2013

HOU Use and Lease Provisions	Previous Use and Lease (Competition Plan 2000 & Updates 2002, 2004, and 2011)	Reference Location	New HOU Agreement	Reference Location
West Terminal/West Concourse and West Concourse Apron Area Fees - New Int'l Project Space (New) (cont.)	N/A	N/A	Preferential Lease of West Terminal/West Concourse Gates The City will allow only Long Term Signatory Airlines to preferentially lease gates in the West Terminal/West Concourse. The Long Term Signatory Airlines shall pay the greater of: 1.) Total fees calculated in 6.04 or 2.) Central Concourse Average Gate Cost If the total Central Concourse Average Gate Cost is higher than a Long Term Signatory Carrier's cost in the West Terminal/West Concourse calculated in Section 6.04, the difference shall reduce the total requirement in Section 6.04.	Section 2.09 B
FIS Fees (New)	N/A	N/A	O&M - Direct & Indirect Amortization of Capital Improvements Amortization of Southwest Investment (25 yr.) Replenishment of Renewal/ Replacement Fund Total expenses above less non-signatory airline premiums divided by 750,000 (initial base yr. estimate of deplanements) = base \$ per deplanement x number of airline's deplanements in past month = City invoice amount to airline Future year base number of deplanements will be based on Int'l deplanements results.	Section 6.05

Attachment III
HOU Current Use and Lease vs. New Use and Lease Comparison
4/25/2013

HOU Use and Lease Provisions	Previous Use and Lease (Competition Plan 2000 & Updates 2002, 2004, and 2011)	Reference Location	New HOU Agreement	Reference Location
Landing Fee Rate	Amortization (if not fully amortized) O&M - Direct & Indirect Interest on cost of land System Costs Replenishment of Renewal/ Replacement Fund Commercial air transportation users charged per MGLW Non-commercial air transportation users charged by other means as determined by City (currently \$.06 per gallon fuel charge) Formula: Airfield Requirement Less: GA landing fees, GA fuel flowage fees, non-signatory premiums = Net Airfield requirement divided by MGLW for all airlines = Landing fee rate	Section 5.06 Section 6.06	No significant changes. Minor wording changes. System costs are incorporated into the definition of O&M expenses in new agreement. Amortization (if not fully amortized) O&M - Direct & Indirect Interest on cost of land Replenishment of Renewal/ Replacement Fund Commercial air transportation users charged per MGLW Non-commercial air transportation users charged by other means as determined by City (currently \$.06 per gallon fuel charge) Formula: Airfield Requirement Less: GA landing fees, GA fuel flowage fees, non-signatory premiums = Net Airfield requirement divided by MGLW for all airlines = Landing fee rate	Section 5.06 Section 6.08
Joint Use Rental Rates	Previously defined as Common Use space. Aggregate costs allocated to each airline user using 20/80 formula - 20% allocated equally among signatory airlines and 80% allocated to signatory airlines based on enplaned passengers. A 25% premium is added to non-signatory airlines.	Section 4.01 Section 4.02	Previously defined as Common Use space. No change in practice but includes a definition change between common use and joint use. Multiple bag make-up areas exist and costs shall be prorated among the assigned users of such areas. Aggregate costs of joint use space will be allocated to each airline user using 20/80 formula - 20% allocated equally among signatory airlines and 80% allocated to signatory airlines based on enplaned passengers. A 25% premium is added to non-signatory airlines.	Section 6.09
Security Screening Rental Rates	Security Screening space 50% Airline using 20/80 formula 50% Airport Office Space - TSA pays	Section 4.01 Section 4.02 Section 6.01	No change in practice but most of the text in Sections 4.01 & 4.02 was deleted and is now reflected in the lease exhibits. Security Screening space 50% Airline via Joint Use 20/80 formula 50% Airport Office Space - TSA pays	Section 6.10

Attachment III
HOU Current Use and Lease vs. New Use and Lease Comparison
4/25/2013

HOU Use and Lease Provisions	Previous Use and Lease (Competition Plan 2000 & Updates 2002, 2004, and 2011)	Reference Location	New HOU Agreement	Reference Location
Per Use Charges	Central Concourse		<p>Central Concourse - No change City shall charge Signatory Airlines using common use space or space leased to another Signatory Airline in the Central Concourse at least the amount that non-signatory airlines pay excluding the 25% premium.</p> <p>West Concourse - New language City shall charge Signatory Airlines using common use space or space leased to another Signatory Airline in the West Concourse for domestic arrivals at least the amount that non-signatory airlines pay in the Central Concourse excluding the 25% premium. Non-signatory airlines will pay a 25% premium in the West Concourse.</p>	Section 6.18
Utilities	Airline - Water, Sewer, Electric, Gas for leased premises and airline equipment. City to allocate proportionately if not separately metered.	Section 5.07 A	No change.	Section 5.07 A
Other Charges (i.e. fines or penalties for airlines noncompliance with 49CFR Parts 1540 and 1542 and other miscellaneous	Airline pays for fines against City for Airline's non-compliance. Airline agrees to pay reasonable charges for City provided facilities, equipment and services. Includes items such as telecommunication trunk equipment, employee parking facilities, and security id badges.	Section 5.07 B & C	No change.	Section 5.07 B & C
Security Deposit	3 x Airlines Monthly Rents/Fees. Waived w/ 12 Mo. on time payments or 10 other airports' payments on time for 12 months.	Section 5.08	No change.	Section 5.08
Access Fee for 3rd Party Service Providers (i.e.. contractors or suppliers accessing the Airport)	Up to \$200 / Month to cover administrative costs of executing agreements Currently not implemented.	Section 5.10	No change.	Section 5.10

Attachment III
HOU Current Use and Lease vs. New Use and Lease Comparison
4/25/2013

HOU Use and Lease Provisions	Previous Use and Lease (Competition Plan 2000 & Updates 2002, 2004, and 2011)	Reference Location	New HOU Agreement	Reference Location
PFCs	For Airline's support of PFC, HAS agreed to only charge airline 50% of TSA space beginning 7/1/2004 - thru end of agreement City has right to audit.	Section 6.01 (50% Charge for TSA Space) Section 14.10 Right to audit	In recognition of City's intent to control Airport costs, Airline acknowledges City's right to levy and use PFCs for any lawful purpose and states support of Airport's use and level of PFCs. City remains obligated to consult with Airline and to follow procedures per 14 CFR Part 158 or other regulations.	Section 6.16
Concession Revenue	City retains all right to operate all concession services in the Terminal Building and to retain all revenue. No concession services can be located in any non-public Exclusive Use Space without Airline's prior consent. City shall not materially impede passenger ingress or egress or Airline's business operations.	Section 2.02 A	Previous language was changed to clarify that placing concessions in Preferential Use Space also needs Airline's prior consent. Added: Incremental Inside Concession Revenue Credit Upon 1st anniversary (7/1/2016) of the Effective Date (7/1/2015) an inside concession revenue credit to Long Term Signatory Airlines for each year in which total enplaned passengers are greater than baseline total enplaned passengers. Formula: Baseline enplaned passengers = # of enplaned passengers in prior 12 months preceding the Effective Date Step 1: Subtract the Baseline Passengers from the current year Enplaned Passengers. (Yields: Increased # of Enplaned Passengers) Step 2: Divide the current year total Inside Concession Revenue by the current year total Enplaned Passengers. (Yields: Revenue per Enplaned Passenger)	Section 6.12

Attachment III
HOU Current Use and Lease vs. New Use and Lease Comparison
4/25/2013

HOU Use and Lease Provisions	Previous Use and Lease (Competition Plan 2000 & Updates 2002, 2004, and 2011)	Reference Location	New HOU Agreement	Reference Location
Concession Revenue (cont.)		Section 2.02 A	<p>Step 3: Multiply the result of Step 1 by the result of Step 2. (Yields: Revenue to be shared)</p> <p>Step 4: Allocate the result of Step 3 by the number of Enplaned Passengers of current Long-Term Signatory Airlines. (Yields: Allocated amounts of Concessions Revenue to Long Term Signatory Airlines)</p> <p>The City will calculate and notify the Long Term Signatory Airlines of the Inside Concession Revenue Credit within 30 days of receipt of all docs. The credit will be issued within 15 days of notification against Long Term Signatory Airlines rentals and fees. In no event will the total Incremental Inside Concession Revenue credit exceed \$3,900,000</p>	Section 6.12
The Project "William P. Hobby Airport International Expansion Project"	N/A	N/A	<p>Includes:</p> <ol style="list-style-type: none"> 1. The development of five new international gates capable of handling narrow-body transport category aircraft (e.g., Boeing 737 series and Airbus 320 series) 2. The development of an FIS 3. The development of associated ramp and extended hydrant fueling system improvements, apron work and drainage 4. Related security checkpoint enhancements 5. All associated enabling projects including, but not limited to, the central utility plant, the Airline ticket counter and office relocation, and the HAS office relocation 6. All related and applicable costs, fees and taxes, including without limitation planning, legal, construction management, construction, materials, project management fees and permit fees 7. Reimbursement to the City of the third party consultant costs for developing a Project Definition Manual, as defined in the MOA 8. Reimbursement to the City of the third party consultant costs for the City liaison associated with construction of the Project. 	Definition #44 - "Project" or "William P. Hobby Airport International Expansion Project"

Attachment III
HOU Current Use and Lease vs. New Use and Lease Comparison
4/25/2013

HOU Use and Lease Provisions	Previous Use and Lease (Competition Plan 2000 & Updates 2002, 2004, and 2011)	Reference Location	New HOU Agreement	Reference Location
Construction of Improvements	N/A	N/A	<p>Section VII begins on Execution Date (2/25/2013).</p> <p>The MOA which is incorporated by reference is the primary document for the International Facilities Project. Within 30 days of DBO, Southwest is to provide a preliminary estimate of costs spent. Within 9 months of DBO, Southwest provides final costs spent and supporting docs, breaking down shell space and finished space.</p> <p>Southwest will abide by City programs such as Drug Free Workplace, Prevailing Wages, Civic Art, etc. Also in this section are clauses for warranties, indemnification, insurance requirements, performance bonds, payments of contractors and subs and force majeure.</p>	Section 7.01
Future Capital Improvements by City	City maintains rights to expand, repair, alter, and improve the Airport as the City deems necessary. City also retains discretion to make capital investment decisions and issue bonds as needed.	Section 7.03	No change	Section 7.02
Southwest Recovery of Capital Costs - Credits to Southwest	N/A	N/A	<p>Upon DBO, 1/12th of annual amortization of Southwest's investment</p> <p>Plus other user's payments to City of 1/12th of annual amortization of Southwest's investment until City buys out Southwest's investment.</p>	Section 6.11
Project Credits to Southwest	N/A	N/A	<p>Within 90 days of Southwest providing final certification of costs spent on the project, the City will issue rental credits to Southwest for the following:</p> <ol style="list-style-type: none"> 1. The amount Southwest spent on non-Int'l facility space 2. The amount Southwest spent to construct shell space in the Int'l facility intended for use by HAS. <p>Formula: Square feet x average rate p.s.f. for shell space</p>	Section 6.19

Attachment III
HOU Current Use and Lease vs. New Use and Lease Comparison
4/25/2013

HOU Use and Lease Provisions	Previous Use and Lease (Competition Plan 2000 & Updates 2002, 2004, and 2011)	Reference Location	New HOU Agreement	Reference Location
City Buy-Out Rights	N/A	N/A	<p>Southwest represents there will be no debt used to finance the Project.</p> <p>Any time after final completion, the City may buy-out Southwest's investment in the Project for the unamortized cost at the City's imputed amortization rate over a 25 year period.</p> <p>As of the execution date it is not the City's intention to use Airport Improvement funds for such buy-out. If the City buys-out the Project, Southwest will be billed for its proportionate share of HAS capital charges.</p>	Section 7.04
Donation Agreement	N/A	N/A	<p>A Donation Agreement is referenced and was signed on 3/22/2013, whereby Southwest grants and conveys title, rights and interest for purchased items for the Project to the City prior to the date they will be used by Southwest for the Project. Southwest will donate purchased items upon acquisition of the items.</p>	Section 7.05

Attachment III
HOU Current Use and Lease vs. New Use and Lease Comparison
4/25/2013

HOU Use and Lease Provisions	Previous Use and Lease (Competition Plan 2000 & Updates 2002, 2004, and 2011)	Reference Location	New HOU Agreement	Reference Location
Cost Control Measures	N/A	N/A	Apply to 3 Airport Cost Centers 1. Central Terminal/Central Concourse 2. Central Concourse Apron 3. Airfield The airport will not levy fees which would result in the airline cost per enplanement (CPE) for the 3 combined cost centers that would exceed the CPE for the year ending 6/30/2012 adjusted by cumulative CPI through the year of the calculation. Until 6/30/2025, the domestic enplaned passenger figure used for the CPE calculation will be the greater of actual or the fiscal year ending 6/30/2012. On July 1, 2025, the domestic enplaned passenger figure used for the CPE calculation will be the greater of actual for the FY then ending or the greatest number in the 3 fiscal years preceding 7/1/2025. Any difference in the FY settlement process will be credited back to Airline via credits applied to future rates and charges on a per enplanement basis.	Section 6.15
Cost Control Measures (cont.)	N/A	N/A	The following items will be excluded from the CPE calculation: 1. Expenditures mandated but not funded by federal government 2. Expenditures mandated but not funded on a City-wide basis by the City 3. Expenditures resulting from casualty damage to Airport property, net of insurance proceeds City shall substantiate the cost excluded if requested by Airline. Cost control measure shall cease if laws limit the amount or eligibility of City to levy PFCs beyond the limits and eligibility in existence at the Execution Date (2/25/2013). Covenants in this section are subordinate to the City's covenants in the bond ordinances.	Section 6.15

Attachment III
HOU Current Use and Lease vs. New Use and Lease Comparison
4/25/2013

HOU Use and Lease Provisions	Previous Use and Lease (Competition Plan 2000 & Updates 2002, 2004, and 2011)	Reference Location	New HOU Agreement	Reference Location
Extraordinary Coverage Protection	N/A	N/A	If revenues less O&M expenses are projected to be less than 125% of the annual debt service requirement, Airline will make additional payment on a per enplaned passenger charge. If Airlines pay, City will reimburse via credits in future years when coverage test is met.	Section 6.17
Revenue Sharing	N/A	N/A	Incremental Inside Concession Revenue Credit Upon 1st anniversary (7/1/2016) of the Effective Date (7/1/2015) an inside concession revenue credit to Long Term Signatory Airlines for each year in which total enplaned passengers are greater than baseline total enplaned passengers. Formula: Baseline enplaned passengers = # of enplaned passengers in prior 12 months preceding the Effective Date. Step 1: Subtract the Baseline Enplaned Passengers from the current year Enplaned Passengers. (Yields: Growth in number of Enplaned Passengers) Step 2: Divide the current year total Inside Concession Revenue by the current year total Enplaned Passengers. (Yields: Revenue \$ per Enplaned Passenger) Step 3: Multiply the result of Step 1 by the result of Step 2. (Enplaned passenger growth x revenue per enplaned passenger). (Yields: Approximate revenue attributable to enplaned passenger growth)	Section 6.12

Attachment III
HOU Current Use and Lease vs. New Use and Lease Comparison
4/25/2013

HOU Use and Lease Provisions	Previous Use and Lease (Competition Plan 2000 & Updates 2002, 2004, and 2011)	Reference Location	New HOU Agreement	Reference Location
Revenue Sharing (cont.)	N/A	N/A	<p>Step 4: Allocate the result of Step 3 by the number of Enplaned Passengers of current Long-Term Signatory Airlines. (Yields: Revenue credit to each Long Term Signatory Airline)</p> <p>The City will calculate and notify the Long Term Signatory Airlines of the Inside Concession Revenue Credit within 30 days of receipt of all docs.</p> <p>The credit will be issued against Long Term Signatory Airlines rentals and fees within 15 days of notification by City.</p> <p>In no event will the total Incremental Inside Concession Revenue credit exceed \$3,900,000.</p>	Section 6.12

ATTACHMENT IV

**(Southwest Airlines Co.
Airport Use and Lease Agreement
Effective July 1, 2015)**

Attachment II

CV75187
2013-0129

AIRPORT USE AND LEASE AGREEMENT

by and between

CITY OF HOUSTON

and

SOUTHWEST AIRLINES CO.

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AIRPORT USE AND LEASE AGREEMENT

THE STATE OF TEXAS §

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF HARRIS §

THAT, this **AIRPORT USE AND LEASE AGREEMENT** ("Agreement") is made and entered into on the date of countersignature by the City Controller ("Execution Date") by and between the **CITY OF HOUSTON, TEXAS**, a municipal corporation and home-rule city principally situated in Harris County (hereinafter defined and referred to as "City") and **SOUTHWEST AIRLINES CO.**, a corporation doing business in the State of Texas (hereinafter defined and referred to as "Southwest" or "Airline"), (the "Parties").

WITNESSETH:

WHEREAS, City is the owner of the William P. Hobby Airport (hereinafter defined and referred to as "Airport" and more completely identified in Exhibit A attached hereto and made a part hereof), which is located in the City of Houston, Harris County, Texas; and

WHEREAS, Airline is engaged in the business of commercial air transportation of persons, property, cargo, and mail as a scheduled air carrier and is certificated or otherwise authorized by the United States Government to engage in such business; and

WHEREAS, Airline has requested City grant it certain rights, privileges and services in connection with the use of said Airport and its facilities in the conduct of Airline's business as a scheduled air carrier; and

WHEREAS, City is willing to grant Airline such rights, privileges and services upon the terms and conditions and for the consideration hereinafter stated; and

WHEREAS, the City and Southwest agree that there is a significant need for development of additional facilities at the Airport to handle aircraft, passengers, departing to, and arriving from, international destinations on scheduled and chartered flights and, to that end, the City and Southwest have executed a Memorandum of Agreement dated June 5, 2012 (the "MOA") to implement a plan for the development of such a facility broadly defined as the William P. Hobby Airport International Expansion Project ("Project"), as is further defined herein; and

WHEREAS, airlines serving the Airport will be provided an opportunity to enter into this Agreement as of the Effective Date, as defined herein; and

WHEREAS, City and Airline deem it desirable to enter into a written agreement setting forth the respective rights, privileges, obligations and duties of the parties hereto and defining the rights, services and privileges granted and the terms, conditions and consideration on which they are granted;

NOW, THEREFORE, for and in consideration of the Leased Premises and the mutual covenants herein contained and the rentals, charges and fees to be paid by Airline, it is agreed and understood by and between the City and Airline as follows:

Article I

DEFINITIONS

The following words and phrases, wherever used in this Agreement, shall, for the purpose of this Agreement, have the following meanings:

1. "**Affiliate**" means any scheduled air carrier that (a) is a parent or subsidiary of Airline; or (b) otherwise operates under essentially the same trade name as Airline at the Airport, and uses essentially the same livery as Airline.
2. "**Agreement**" means this Airport Use and Lease Agreement.
3. "**Airline**" means the entity that has executed this Agreement and that is identified in the first paragraph of this Agreement.
4. "**Southwest**" means Southwest Airlines Co., a corporation doing business in the State of Texas, or its successor organization.
5. "**Airport**" means William P. Hobby Airport, Houston, Texas, as generally depicted in Exhibit A, Airport Layout Plan, attached hereto and made a part hereof, as it now exists or may be modified or expanded from time to time in the future.
6. "**Airport Cost Centers**" means the direct cost areas to be used in accounting for Airport costs for the purposes of calculating rates and charges hereunder, as such areas now exist or may hereafter be modified, renovated or expanded, subject to provisions of Article VII, and as more particularly described below:
 - A. "**Central Terminal/Central Concourse**" means that portion of the Terminal Complex as depicted in Exhibit B.
 - B. "**Central Concourse Apron Area**" means that portion of the Terminal Apron Area as depicted in Exhibit B.
 - C. "**International Facility**" means, collectively, the facilities and areas in the sub-cost centers described in paragraphs (i) and (ii) immediately below:
 - (i) "**West Terminal/West Concourse and West Concourse Apron Area**" means, for the West Terminal/West Concourse, that portion of the Terminal Complex as depicted in Exhibit B, and for the West Concourse Apron Area, that portion of the Terminal Apron Area as depicted in Exhibit B.

(ii) "**Federal Inspection Services Facility or "FIS"**" means that portion of the Terminal Complex, together with the sterile corridors as depicted in Exhibit B; together with all necessary space and equipment required by the Department of Homeland Security, Customs and Border Protection and related regulating agencies.

D. "**Airfield**" means the runways, taxiways, taxilanes, and apron areas (other than the Terminal Apron Area and other leased apron areas), navigational aids, hazard designation and warning devices, airfield security roads and fencing, blast fencing, lighting, clear zones and safety areas for landing, taking off and taxiing of aircraft, aviation easements, land utilized in connection therewith or acquired for such purpose, and facilities, the acquisition, construction or installation cost of which is wholly or partially paid by City.

E. "**Other Buildings and Areas**" means the other buildings and ground areas of the Airport leased or available for lease to other Airport tenants and users.

F. "**Parking and Ground Transportation Areas**" means the public automobile parking structure and surface parking lots accommodating public automobile parking and ground transportation vehicle staging.

G. "**Terminal Roadways**" means the loop terminal roadway system (as it exists now or as may be modified in the future) within the Airport bounds and serving the Terminal Complex and Parking and Ground Transportation Area.

7. "**Airport System**" means all airport, heliport and aviation facilities, or any interest therein, now or from time to time hereafter owned, operated or controlled in whole or in part by the City, together with all properties, facilities and services thereof, and all additions, extensions, replacements and improvements thereto, and all services provided or to be provided by the City in connection therewith. The Airport System currently includes "George Bush Intercontinental Airport/Houston," "William P. Hobby Airport," and "Ellington Airport."

8. "**Airport Use and Lease Agreement**" means either a Long Term Airport Use and Lease Agreement or a Short Term Airport Use and Lease Agreement.

9. "**Amortization**" means the level annual charge required to recover the net cost of a Capital Improvement over the Useful Life of the Capital Improvement at the City's Cost of Capital.

10. "**Base Capital Charge**" means the fixed annual charge per square foot to be charged for certain areas which have not been identified to be demolished or replaced, the original cost of which has been fully amortized as identified in Exhibit J.

11. "**Bond Ordinances**" means any and all ordinances adopted by the City which authorize debt secured by net revenues of HAS, (whether senior lien, subordinate lien, or inferior lien), specifically including, but not limited to, Ordinance No. 2012-100.

12. "**Capital Improvement**" means any improvement or asset, or series of related improvements or assets, acquired or constructed by City at the Airport, including without limitation any security facilities or equipment, which has a net cost of \$205,000 or more (adjusted annually for changes in the Consumer Price Index from July 1, 2012 to a maximum of \$600,000) and a Useful Life of more than one year. For the purposes of this Agreement, the net cost of each Capital Improvement shall be the total cost (including actual construction costs; architectural and engineering fees, program management fees, testing and inspection fees, construction management fees, permit fees, and other direct or allocable fees; interest during construction; and allocable out-of-pocket financing costs) less any grants-in-aid, Passenger Facility Charge ("PFC") or similar sources used in financing the Capital Improvement.

13. "**City**" means the City of Houston, Texas, or such other agency, board, authority, or private entity which may succeed to the jurisdiction of City over the Airport.

14. "**Common Use**" means the right granted to an airline, in common with others, for the use of designated space at the Airport.

15. "**Cost of Capital**" means (a) for Capital Improvements financed with Airport System Revenue Bonds, the effective interest rate on the Bonds used to finance the particular Capital Improvement and (b) for Capital Improvements financed with other Airport or Airline funds, the current Revenue Bond Index (of 22-year+, "A" rated bonds) published daily in the Wall Street Journal (or successor publication thereto), for the end of the latest month preceding the calculation of the rates and charges, but no later than June 30, of the Fiscal Year the Capital Improvement is placed in service.

16. "**CPI**" means the Consumer Price Index for All Urban Consumers in the metropolitan statistical area that is inclusive of the City, currently known as Houston-Galveston-Brazoria published by the U.S. Department of Labor, Bureau of Labor Statistics (or such comparable index, should the U.S. Department of Labor cease to publish that index).

17. "**Date of Beneficial Occupancy**" or "**DBO**" means the first day of the month following the date(s) on which both of the following has occurred: (1) the Director has certified that the Project is substantially complete and ready for public occupancy and use, and (2) the City has issued a certificate of occupancy for the Project. Issuance by the City of a certificate of occupancy or temporary certificate of occupancy for only a portion of the Project shall not constitute the DBO.

18. "**Deplaned Passenger(s)**" means any passenger, excluding non-revenue passengers (i.e. passengers who are non-revenue passengers in accordance with 14 C.F.R. 217.1, as defined on the Execution Date), disembarking an Airline aircraft at the Airport, including any passenger that subsequently boards another Airline aircraft. A Deplaned Passenger is either a Domestic Deplaned Passenger or an International Deplaned Passenger.

19. "**Director**" means the Director of the Houston Airport System, or his or her designee, or such other officer to whom the duties and authority of the Director may be assigned by the City Council of City or by any agency, board or authority which may subsequently succeed to the jurisdiction of City over the Airport.

20. "**Domestic Enplaned Passenger**" means any Enplaned Passenger whose destination is within the United States or its territories.

21. "**Effective Date**" is July 1, 2015. For purposes of construction of the Project, Article VII shall become effective on the Execution Date.

22. "**Enplaned Passenger**" means any passenger boarding an airline aircraft at the Airport.

23. "**Environmental Laws**" has the meaning set forth in Section 14.02.C.1 herein.

24. "**Exclusive Use Space**" means those areas used solely by Airline, to the exclusion of others, as shown in Exhibit C, which may include ticket offices, operation support rooms, club rooms and other sole-use operation areas.

25. "**Execution Date**" has the meaning set forth in the first paragraph of this Agreement.

26. "**Expiration Date**" is June 30, 2040.

27. "**Fiscal Year**" refers to City's fiscal year and means the twelve-month period commencing July 1 and extending through June 30 of the following calendar year, or such other fiscal year as City Council may establish by ordinance.

28. "**Gate**" means the passenger holdroom, passenger loading bridge and associated aircraft parking position.

29. "**Ground Handling Services**" means any of the following: on and off loading of passengers (including ticketing), baggage, mail or cargo; into-plane fueling; in-flight catering; servicing aircraft lavatories; providing ground power, potable water and preconditioned air; cleaning the interior of aircraft; and any other similar ground services.

30. "**Hazardous Materials**" shall be interpreted in the broadest sense to include any and all substances, materials, wastes, pollutants, oils, or governmental regulated substances or contaminants as defined or designated as hazardous, toxic, radioactive, dangerous, or any other similar term in or under any of the Environmental Laws, including but not limited to, asbestos and asbestos containing materials, petroleum products including crude oil or any fraction thereof, gasoline, aviation fuel, jet fuel, diesel fuel, lubricating oils and solvents, urea formaldehyde, flammable explosives, PCBs, radioactive materials or waste, or any other substance that, because of its quantity, concentration, physical, chemical, or infectious characteristics may cause or threaten a present or potential hazard to human health or the environment or which may impair the beneficial use of property for Airport purposes. Hazardous Materials shall also mean any and all hazardous materials, hazardous wastes, toxic or hazardous substances, or substances regulated under any Environmental Laws set forth in Section 14.02.C.1. hereof.

31. "**Houston Airport System**" or "**HAS**" means the organizational entity of the City which has responsibility for the operation and administration of the City's airport system.

32. "**Inside Concession Revenue**" means concession revenue that HAS actually receives from all inside concessions (defined as food, beverage, news, gifts, other retail, duty-free merchandise, telephones, advertising and other miscellaneous concessions) throughout the Terminal Complex, and shall not include outside concessions such as parking, rental cars and ground transportation.

33. "**International Deplaned Passenger**" means a Deplaned Passenger whose origin is outside the United States or its territories.

34. "**Joint Use Space**" means the space assigned to airlines in Exhibit C that must be shared by them collectively for the conduct of their air transportation business.

35. "**Leased Premises**" means all space leased by Airline as depicted in Exhibit C.

36. "**Long Term Signatory Airline**" means a Signatory Airline that executes a Long Term Airport Use and Lease Agreement with the City.

37. "**Long Term Airport Use and Lease Agreement**" means an Airport Use and Lease Agreement which expires on the Expiration Date, provided that such agreement has a minimum term of ten (10) years.

38. "**Mayor**" means the Mayor of the City of Houston or such other officer to whom the duties and authority of the Mayor may be assigned by the Charter of the City of Houston or by an act of the Legislature of the State of Texas or by any agency, board, or authority which may succeed to the jurisdiction of City over the Airport.

39. "**MOA**" has the meaning set forth in the Recitals herein.

40. "**Non-Signatory Airline**" means an airline that has not executed an Airport Use and Lease Agreement with the City.

41. "**Operation and Maintenance Expenses**" or "**O&M Expenses**" means all reasonable and necessary current expenses of City, paid or accrued, of operating, maintaining, repairing, and administering the Airport; including, without necessarily limiting thereto, salaries and wages, fringe benefits, contractual services, utilities, systems, professional services, police protection services, fire protection services, administrative expenses, the cost of materials and supplies used for current operations, equipment, insurance premiums, the reasonable charges of any paying agents and any other depository bank pertaining to the Airport, as well as overhead expenses of (a) the Houston Airport System (which shall be fairly allocated among City's airport facilities in accordance with generally accepted accounting practices) and (b) other City departments whose services are directly related or reasonably allocable to the administration of the Airport (which shall be determined in accordance with a City-wide administrative cost allocation plan then in effect); provided, however, Operation and Maintenance Expenses shall

not include any allowance for depreciation, payments in lieu of taxes, Capital Improvements, or any charges for the accumulation of reserves for capital replacements.

42. "**Preferential Use**" means the scheduling rights granted a Signatory Airline for the use of space at the Airport in advance of all other airlines and in accordance with Article IV.

43. "**Preferential Use Space**" means the locations shown in Exhibit C which are leased to Airline on a Preferential Use basis.

44. "**Project**" or "**William P. Hobby Airport International Expansion Project**" means, collectively: (a) the development of five new international gates capable of handling narrow-body transport category aircraft (e.g., Boeing 737 series and Airbus 320 series); (b) the development of an FIS; (c) the development of associated ramp and extended hydrant fueling system improvements, apron work and drainage; (d) related security checkpoint enhancements; (e) all associated enabling projects including, but not limited to, the central utility plant, the Airline ticket counter and office relocation, and the HAS office relocation; (f) all related and applicable costs, fees and taxes, including without limitation, planning, legal, construction management, construction, materials, project management fees, and permit fees; (g) reimbursement to the City of the third party consultant costs for developing a Project Definition Manual, as defined in the MOA; and (h) reimbursement to the City of the third party consultant costs for the City liaison associated with construction of the Project.

45. "**Renewal and Replacement Fund**" means the Airport System Renewal and Replacement Fund established by the City's Airport System Revenue Bond ordinances.

46. "**Requesting Airline**" means an airline that requests to provide new or additional service at the Airport.

47. "**Security Screening Space**" means the space used for the screening of passengers (security screening checkpoints) and baggage (explosives detection screening space) in the Terminal Complex, as shown in Exhibit C that must be shared by the airlines collectively for the conduct of their air transportation business.

48. "**Short Term Airport Use and Lease Agreement**" means an Airport Use and Lease Agreement with a term of (5) years or the duration of the term, whichever is less. Such agreement shall automatically extend for additional five-year terms in the absence of receipt of written notice of cancellation by the Airline, to the other Party at least ninety (90) days prior to the expiration of the then existing term, but in no event beyond the Expiration Date.

49. "**Short Term Signatory Airline**" means a Signatory Airline that executes a Short Term Airport Use and Lease Agreement with the City.

50. "**Signatory Airline**" means an airline that leases at least one holdroom in the Central Concourse, four ticket counter positions and five hundred (500) square feet of operations space or the financial equivalent at the Airport, and executes an Airport Use and Lease Agreement with the City.

51. "**Southwest's Investment in the Project**" means Southwest's total costs spent on the Project, less any credit Southwest receives pursuant to Section 6.19, less the costs associated with the hydrant fueling system related to the Project and less any grant funds received related to the Project. Southwest shall certify to the Director the total costs spent on the Project and provide supporting documentation, pursuant to Section 7.01. For purposes of calculating rentals and fees as provided in Article VI, this amount shall become zero on the effective date that the City exercises a buyout of the Project pursuant to Section 7.04.

52. "**Terminal Apron Area**" means, collectively, the Central Concourse Apron Area and the West Concourse Apron Area.

53. "**Terminal Complex**" means, collectively, the Central Terminal/Central Concourse, the West Terminal/West Concourse and the FIS.

54. "**Turn**" means a combination of one arrival and one departure. An arrival and departure with an aircraft with fewer than one hundred (100) seats will be counted as one-half a Turn.

55. "**Usable Space**" means the gross square footage of a sub-cost center within the Terminal Complex less the square footage of mechanical, electrical, and other service and support space in the sub-cost center.

56. "**Useful Life**" means the period of time that a Capital Investment is to be recovered through the Amortization process. In general, a Useful Life will be assigned to each Capital Improvement by the Director based on generally accepted airport accounting practices. For purposes of calculating rates and fees under this Agreement, improvements will be assigned the following Useful Life: (a) new facilities and reconstruction of the Terminal Complex (except passenger loading bridges, baggage claim and outbound baggage equipment) - 25 years, (b) renovations to facilities - 20 years, (c) new passenger loading bridges, baggage claim, and outbound baggage equipment - 15 years.

Article II

RIGHTS AND PRIVILEGES

Section 2.01. **Use of Airport**

As long as it does so in accordance with the terms and provisions hereof, Airline, in common with all other scheduled airlines using the Airport, may utilize the Airport (other than the exclusive space of other tenants) and its facilities for the purpose of conducting Airline's business of a scheduled air carrier certificated or otherwise authorized by the United States Government to engage in the business of commercial air transportation of persons, property, cargo, and mail (hereinafter sometimes referred to as "air transportation business"). The privileges granted hereby include the following:

A. The use of landing field areas, aprons, roadways, runways, taxiways, runway and taxiway lights, beacons, facilities, equipment, improvements, services and other conveniences for flying, landing, taxiing and takeoffs of aircraft.

B. The landing, taking-off, flying, taxiing, towing, loading and unloading of aircraft and other equipment used by Airline in its operation of its air transportation business.

C. The repairing, maintaining, conditioning, servicing (to include exterior aircraft cleaning), testing, including engine "run-ups", and emergency maintenance of aircraft engines and systems subject to Section 2.03F hereof, loading, unloading, parking and staging of aircraft or other equipment of Airline in areas on the Airport designated by the Director for such purposes.

D. The training of personnel employed by or to be employed by Airline including employees of Airline's contract service providers.

E. The installation, maintenance and operation, at Airline's expense, by Airline alone, or in conjunction with any other airline or airlines who are lessees at the Airport or through a nominee, of radio, telephone, and data communications equipment and meteorological and aerial navigation equipment and facilities in or on the Leased Premises for use by Airline in the conduct of its air transportation business; provided, however, that any installations shall be subject to the prior written approval of the Director and whether interior or exterior, shall not interfere with the Airport navigation aids or with similar rights granted to other tenants or governmental agencies. In the event of such interference, the Director may require removal, relocation, or modification to eliminate such interference.

F. The selling, exchanging or disposing of gasoline, oil, grease, lubricants, fuels, or propellants for use by Airline in connection with the conduct of its air transportation business (in compliance with existing laws and any applicable agreement therefor).

G. The purchasing or otherwise obtaining of services or personal property of any nature including aircraft, engines, accessories, gasoline, oil, greases, lubricants, fuels, propellants, food, beverages, and other equipment, parts or supplies necessary to Airline in the conduct of its air transportation business and in the exercise of its rights and privileges herein granted and in the discharge of the obligations herein imposed upon Airline.

H. The installing, maintaining and operation by the Airline or its nominee of vending machines in Airline's Exclusive Use Space not accessible to the public for the purpose of providing and making available foods, beverages and sundry food items to Airline's employees only.

I. The installing, maintaining, and operation, without cost to City, by Airline alone or in conjunction with any other Signatory Airline at the Airport, of communication systems between suitable locations in the Terminal Complex, subject to the approval of the Director as to location of the installation of said system.

J. The transporting, directly or through a nominee of Airline's choice, of Airline's employees, passengers, cargo, property (including baggage) and mail to, from and at the Airport.

K. Subject to the prior written approval of the Director (which approval may be withheld at Director's sole discretion), the installation and maintenance at Airline's expense, on its Leased Premises, of identifying signs representing its business. Such signs shall be uniform in size, type and location as approved by the Director and shall be consistent with published Houston Airport System signage criteria.

L. The conduct of any other operation or activity that is necessary for or related to Airline's air transportation business, subject to the provisions of Section 2.02. hereof.

M. **Ground Handling of Airline by Others.** Airline may contract with, or receive from other airlines serving the Airport or other companies, Ground Handling Services for Airline's aircraft, provided that Airline provides advance written notice to the Director (or his designated representative) of such arrangements and uses reasonable efforts to ensure that such other airline or other company shall have entered into an operating permit or agreement or other similar contract with City prior to commencing Ground Handling Services with Airline.

N. **Ground Handling of Others by Airline.** Airline may provide Ground Handling Services to aircraft of other airlines using the Airport provided that Airline provides advance written notice to the Director (or his designated representative) of such arrangements and uses its best efforts to ensure that such other airline has entered into an operating permit or agreement or similar contract with City prior to conducting its operations at the Airport. Airline's insurance, as required in this Agreement, shall provide insurance coverage for such Ground Handling Services.

O. The rights granted to Airline herein may be exercised by Airline or by another party designated by Airline; however, as between City and Airline such other party shall be considered Airline's agent. It is specifically provided, however, that Airline shall not grant another airline the right to exercise any of the aforesaid rights on its behalf unless and until such other airline has executed an Airport Use and Lease Agreement with City.

P. The installation, maintenance and operation by Airline or its nominee on land leased from City for the purpose of a facility for the preparation and sale of meals for consumption aboard aircraft operated by Airline and its subsidiaries. The Leased Premises shall not be used for such purposes.

Q. **Affiliates.** A Signatory Airline must designate in writing to the City any scheduled air carrier that will be an Affiliate of that Signatory Airline at the Airport. A Signatory Airline must also designate in writing to the City to terminate such Affiliate status of such scheduled air carrier. Affiliates shall have the rights afforded Airline without payment of any additional charges or premiums, provided Airline: (a) remains a Signatory Airline to this Agreement; and (b) agrees and shall be obligated to serve as a financial guarantor for all rentals, fees and charges incurred by any Affiliate of Airline at the Airport. Airline shall be responsible

for any and all unpaid rentals, fees and charges of any such Affiliate while such Affiliate operates at the Airport.

Section 2.02. Rights Reserved by City

A. Except as otherwise provided herein, City reserves the exclusive right to itself, its agents and its franchisees, to operate all concession services (including, but not limited to, food/beverage and news/gift concessions, specialty retail shops and carts, vending machines, pay telephones, fax machines and other voice and data telecommunications systems, advertising displays, baggage lockers and baggage carts) in the Terminal Complex (including public use premises) and to retain the revenue therefrom; provided however, that City agrees that no concession services shall be located or operated by City or its nominees in any non-public use Exclusive Use Space and Preferential Use Space without Airline's prior consent and providing that City shall not exercise such right in a manner that will materially impede passenger ingress or egress or Airline's business operations.

B. City shall operate all concessions and provide such other services (with reasonable due consideration to requests made by Airline) for scheduled airline passenger operations at the Airport as it deems necessary or appropriate. Nothing herein shall limit or preclude City from operating whatever concessions or providing whatever services it may desire at any and all airports and other facilities owned by City.

Section 2.03. Limitations of Use of Airport

A. **Use of Facilities.** Airline shall not knowingly permit any act or omission at or about the Airport that may interfere with the effectiveness or accessibility of the drainage and sewage system, electrical system, heating and air conditioning system, fire protection system, sprinkler system, alarm system, fire hydrants and hoses, and security systems, if any, installed or located on or within the Leased Premises or the Airport.

B. **Use of Gates.** Gates shall not be subdivided (i.e., a Gate may not be used to accommodate more than one aircraft simultaneously at any time, and no hardstand operations, shall be permitted). Gates shall only be used for the enplanement and deplanement of passengers, and loading and unloading of belly cargo on passenger aircraft.

C. **Insurance Requirements Compliance.** Airline shall not knowingly permit any act upon the Airport that will invalidate or conflict with any fire or other casualty insurance policies (copies of which, together with premium schedules, shall be furnished to Airline on request) covering the Airport or any part thereof.

D. **Waste Disposal.** Airline shall not dispose of or knowingly permit disposal of any waste material taken from or products used (whether liquid or solid) with respect to its aircraft into the sanitary or storm sewers at the Airport unless such waste material or products shall first be properly treated by equipment installed for that purpose or otherwise disposed of pursuant to law. In addition to obtaining approval from the governmental agencies regulating equipment and disposal described in this paragraph, Airline shall also obtain the approval of the Director. All

such disposal shall comply with regulations of the United States Department of Agriculture and the Environmental Protection Agency and shall be in compliance with Section 14.02 of this Agreement.

E. Flammable Liquids. Airline shall not keep or store, during any 24-hour period, flammable liquids within the enclosed portion of the Leased Premises in excess of Airline's working requirements during said 24-hour period, except in storage facilities especially constructed for such purposes in accordance with standards established by the National Board of Fire Underwriters and approved by a governmental agency with authority to inspect such facilities for safety compliance. Any such liquids having a flash point of less than 100°F shall be kept and stored in safety containers of a type approved by the Underwriters Laboratories.

F. Engine Run-ups. Airline shall perform aircraft engine run-ups only at locations and during time periods approved in writing in advance by the Director.

G. Hydrant Fueling System. Unless otherwise approved by the Director, Airline shall use the hydrant fueling system to fuel its aircraft if available for use.

H. Other. Except as otherwise expressly provided herein, Airline's use of the Airport shall be limited to activities directly connected to the transportation of passengers, persons, property, cargo and mail by air, and Airline shall not enter into activities which compete with City in City's development of any revenue from Airport passengers, tenants, and other users.

Section 2.04. Public Areas in Terminal Complex

Airline, its employees, passengers, guests, patrons and invitees, shall have ingress and egress to and the privilege to use, in common with the public, the public areas in the Terminal Complex in accordance with the terms and provisions hereof.

Section 2.05. Parking

A. In the event City develops or causes to be developed an area or areas at the Airport as common parking facilities for the employees of Airline and other Airport tenants, the Director, in consultation with the Airline, will determine a reasonable charge for the use of such facilities to cover return on capital investment and costs associated with their development, operation, supervision and maintenance. Public vehicular parking facilities will be provided by City at reasonable charges to be determined by City.

B. Only employees of Airline may park on such employee parking facilities.

Section 2.06. Ingress and Egress

Subject to the other provisions hereof and to the rules and regulations adopted by City under the provisions of Article XIV hereof, the following privileges of ingress and egress with respect to the Airport are hereby granted:

A. For Airline, its agents, employees, contractors, subcontractors and permitted sub-lessees and assigns: To the public areas of the Airport and to those areas and facilities designated herein for use by Airline. This right shall extend to Airline's aircraft, vehicles, machinery and equipment used in its air transportation business.

B. For Airline's passengers, guests and invitees: To areas leased to Airline and to areas provided for use of Airline's passengers, guests and invitees and to public areas and public facilities. This privilege shall extend to vehicles of such passengers, guests and invitees.

C. For Airline's suppliers of materials and furnishers of service: To the public areas of the Airport and to areas and facilities leased to Airline and to areas and facilities provided for the use by Airline or its suppliers of materials and furnishers of services. This privilege shall extend to vehicles, machinery or equipment of such suppliers and furnishers used in their business of furnishing such supplies and services to Airline.

D. The ingress and egress provided for above shall not be used, enjoyed or extended to any person, airline or vehicle engaging in any activity or performing any act or furnishing any service for or on behalf of Airline that Airline is not authorized to engage in or perform under the provisions hereof unless expressly authorized by the Director.

Section 2.07. Sales or Distribution of Food / Beverages

A. In-Flight Catering. Airline shall have the right to provide in-flight catering for its air passengers either with its own staff or by contract with others. In-flight catering companies serving Airline at the Airport shall enter into an operating agreement or the equivalent thereof with City prior to commencing in-flight catering services to Airline.

B. Distribution of In-Flight Food/Beverages. The distribution, serving or sale of food and/or beverages (including alcoholic beverages) by Airline or its in-flight catering company shall be limited to Airline's passengers who are in the passenger loading bridge or entrance to the passenger loading bridge and boarding Airline's aircraft. Airline will take reasonable actions to ensure that such food and/or beverages are consumed only on board the aircraft. The provisions of this section notwithstanding, all distribution of alcoholic beverages shall comply with applicable laws.

Distribution of food and/or beverages (at no cost to the public) by Airline in passenger holdrooms shall be permitted only with advance written approval of the Director. All such food and/or beverages, other than coffee, shall be purchased only from City's food and beverage concessionaires operating at the Airport, unless approved by the Director.

C. Club Rooms. Airline shall have the right to lease space in the Terminal Complex, if available, for the purpose of maintaining and operating club rooms for its guests, invitees, and passengers and may serve beverages, including alcoholic beverages and appetizers therein with or without charge and subject to all applicable laws, regulations and ordinances; provided, however, that City reserves the right to charge Airline applicable percentages of its

gross revenues from the sale of food and beverages consistent with the percentages charged to its food and beverage concessionaires at the Airport, provided that no such payment shall be required with respect to items obtained from concessionaires already obligated to make such payments to City with respect to such obtained items.

D. Other Distribution of Food/Beverages Prohibited. Except as allowed in Section 2.01.H and this Section 2.07, all other serving, distribution or sale of food or beverages by Airline at the Airport is prohibited.

Section 2.08. All Operations Required at Terminal Complex. The City shall require all scheduled passenger operations, excluding charter operations, to operate at the Terminal Complex.

Section 2.09. Preferential Lease of West Terminal/West Concourse Gates.

A. The City shall permit only Long Term Signatory Airlines to preferentially lease Gate(s) in the West Terminal/West Concourse. During each Fiscal Year, Long Term Signatory Airlines leasing Gate(s) in the West Terminal/West Concourse shall pay the greater of:

1. the total fees calculated in accordance with Section 6.04 hereof; or
2. the Central Concourse average Gate cost (using 2,600 square feet as the average holdroom size, plus passenger loading bridge, plus associated Central Concourse Apron Area) (collectively, the “Central Concourse Average Gate Cost”) in any given Fiscal Year.

B. In any Fiscal Year that the Central Concourse Average Gate Cost is greater than a Long Term Signatory Airline’s total fees calculated in accordance with Section 6.04 hereof, the difference between such amounts shall reduce the total requirement calculated in Section 6.04.

Article III

TERM

Section 3.01. Term

A. The term of this Agreement shall begin on the Effective Date and end 25 years later on June 30, 2040 (the “Expiration Date”); provided, however, that Article VII shall become effective on the Execution Date. In no event shall the term, including any extensions of this Agreement, extend beyond the Expiration Date, unless the Director, in his reasonable discretion, extends this Agreement on a month-to-month basis upon thirty (30) days written notice to Airline.

B. If, for whatever reason, the Project is not completed, as evidenced by a certificate of occupancy for the entirety of the Project, by December 31, 2016, or as may be extended by the Director, but in no event beyond December 31, 2018, this Agreement shall be considered terminated and of no further force and effect. In such event, at the discretion of the Director, Southwest shall restore the site to its original condition before the start of any construction.

Section 3.02. Airline's Rights Upon Expiration or Early Termination of Agreement

Upon expiration or early termination of this Agreement, all of Airline's rights, authority, and privileges under this Agreement shall cease (except as specifically provided in Section 4.05B).

Section 3.03 MOA

The MOA shall remain in full force and effect from the Execution Date until DBO. On the DBO the MOA shall be deemed terminated and of no further effect.

**Article IV
LEASED PREMISES**

Section 4.01. Terminal Complex Leased Premises

A. Exclusive Use Space. Airline hereby leases from City and City hereby leases to Airline for its exclusive use the areas in the Terminal Complex, as shown in Exhibit C.

B. Preferential Use Space. Airline hereby leases from City and City hereby leases to Airline for its Preferential Use the areas in the Terminal Complex, as shown in Exhibit C.

Due to the physical constraints of the east end of the Central Concourse, the square footage of the Preferential Use Space listed as "Shared Use Holdroom Area" has been derived based on an allocation formula as shown in Exhibit K. Airline will be assigned Preferential Use of a specific gate(s) including the use of the associated gate podium(s), loading bridge(s) and aircraft parking position(s). However, the holdroom seating area serving such gate(s) will be shared by all of the airlines with assigned gates in this area.

C. Joint Use Space. Airline hereby leases from City, and City hereby leases to Airline for its use in common with other airlines the areas in the Terminal Complex, as shown in Exhibit C.

D. Security Screening Space. Airline hereby leases from City, and City hereby leases to Airline for its use in common with other airlines, the Security Screening Space in the Terminal Complex, as shown in Exhibit C.

Section 4.02. Terminal Apron Areas

A. Central Concourse Apron Area/West Concourse Apron Area. Airline hereby leases from City and City hereby leases to Airline for its preferential use the Central Concourse Apron Area and the West Concourse Apron Area, as shown in Exhibit C.

B. Parking of Airline's Aircraft. Airline shall have the right to locate aircraft

within Airline's Central Concourse Apron Area and/or the West Concourse Apron Area for the purpose of loading and unloading passengers, baggage, cargo and mail; provided, however, that Airline shall not park aircraft in such a manner as would prohibit access, ingress, and egress to and from all aircraft parking positions by aircraft, ramp equipment, and traffic of other airlines or would prohibit the movement of aircraft and ramp equipment to and from the most convenient taxiway and the Terminal Complex.

Section 4.03. Gate Use, Accommodation and Relinquishment

A. Preferential Rights to the Use of Gates. Airline is granted the Preferential Use but not the exclusive use of its assigned Gate(s). Airline must submit its schedule on the first day of the month for the succeeding 90 days. At those times that Airline has no scheduled use for one or more of its assigned Gate(s), Airline will allow other scheduled or nonscheduled airlines authorized by City to use Airport facilities to use such Gate(s), as circumstances and the public interest may require, for loading and unloading only, but in no event shall said use by others take precedence over Airline's scheduled use. For the purposes of this subsection, the term "scheduled use" shall mean sixty (60) minutes before an aircraft is scheduled to arrive at a Gate and sixty (60) minutes after an aircraft is scheduled to depart from a Gate. When such use is to be made of Airline's Gate(s), City shall collect applicable use fees and reimburse Airline during the annual Fiscal Year reconciliation. Further, Airline may require such non-preferential airline user to enter into an agreement with Airline to provide adequate insurance and to indemnify Airline from liability in the use of the premises.

B. Gate Utilization and Relinquishment. Airline's right to its Preferential Use Gates shall be subject to an average Gate utilization requirement of four (4) Turns each day per Gate assigned to Airline. Affiliates shall be counted towards Airline's average Gate utilization requirement. If Airline fails to meet the average Gate utilization requirement set forth above during any given six-month period, Airline may be required to relinquish its right to one or more Gates, so that, thereafter, Airline will meet the average Gate utilization requirement with its remaining Preferential Use Gates. If Airline is required by City to relinquish any Gate(s) in accordance with this Section, such Gate(s) shall be deleted prospectively from Airline's Leased Premises and Airline's rent obligation with respect to such Gate(s) shall cease.

C. Accommodation of Requesting Airlines When Common Use Gates Are Not Available. Airline and City agree that if an airline requests to provide new or additional service at the Airport, and the City cannot provide such Requesting Airline with adequate facilities, the following procedures shall govern.

1. The City shall require that all requests for airline accommodation in the terminal facilities be received by the City.
2. If the City determines that Airline is under-utilizing its Leased Premises and is able to consolidate its operation without sacrificing its operational integrity (or that of its Affiliates), the City may, upon consultation with Airline and after sixty (60) days prior notice to Airline, recapture a portion of the Leased Premises and require Airline to consolidate its operations into its remaining Leased Premises.

3. For purposes of this Section, under-utilization shall be reasonably determined by the Director, taking into account the then-normal space utilization standard by all airlines at the Airport, Airline's space requirements to accommodate normal operating procedures of Airline, its Affiliates, planned use by Airline for such premises in the next one hundred eighty (180) days and normal seasonal variations, and any related labor agreement. The Director shall report his findings to Airline.
4. Through notice to the City, Airline may request the Director to reconsider his determination of under-utilization within thirty (30) days of receipt of the notice to consolidate. In such event, Airline shall provide documentation to show future plans for service and other information requested by the City. The City shall make a reasonable determination which it believes best meets its overall goals for the Airport.
5. If the City elects to proceed with the consolidation of space after such reconsideration, the City shall give Airline notice within ten (10) days of such decision.
6. If there is no Event of Default with respect to Airline, the City shall issue rent credits in an amount equal to pay all reasonable costs associated with the relocation of Airline's equipment, fixtures, furniture, and signage, and shall reimburse Airline via rent credits for the undepreciated value of the tenant's improvements that cannot be relocated pursuant to the provisions of this Section; provided, however, that in lieu of reimbursing the undepreciated value of Airline's tenant improvements, the City may replace such tenant improvements with like improvements in the consolidated space. If Airline is under an Event of Default, and has received proper notice from the City with respect thereto, Airline shall consolidate into its remaining Leased Premises at its sole cost and expense.

D. Use of West Concourse Gates.

1. International arrivals requiring FIS facilities shall at all times take precedence over domestic arrival and departure operations in the West Concourse Gates.

2. During the twenty-four (24) month period following DBO, Airline may satisfy its utilization requirement for the West Concourse Gates with either international or domestic operations. Following this twenty-four (24) month period, if a Requesting Airline requests to provide new or additional international arrivals at the Airport, and the City cannot provide such Requesting Airline with Common Use Gate space or other adequate facilities in the West Concourse and Airline is using its Preferential Use Gates in the West Concourse for domestic operations, the City can require that Airline shift sufficient domestic operations from its Preferential Use Gates in the West Concourse to accommodate that Requesting Airline. The procedures set forth in this Section 4.03 shall apply.

Section 4.04. Interim Space

Airline acknowledges and agrees that at various times during the construction of the Project, Airline may be required to relocate to, and operate out of, space different from that shown in Exhibit C and as stated in Section 4.01 above. If Airline is required to temporarily

relocate to and operate out of different space, Exhibit C will be modified in accordance with Section 14.22 hereof. At DBO of the Project, as it may affect Airline, Exhibit C will be further modified, also in accordance with Section 14.22 hereof.

Section 4.05. Surrender of Leased Premises

A. Upon expiration or early termination of this Agreement, Airline shall surrender the Leased Premises to City in as good condition as such Leased Premises were in at the time of the original occupancy by Airline, excepting, however, (1) reasonable wear and tear that could not be prevented through routine maintenance required to be done by Airline, (2) damage by fire and other casualty, and (3) acts of God or the public enemy.

B. Except as otherwise provided in this Section, all equipment, trade fixtures, and other personal property installed or placed by Airline in the Leased Premises or on or about the Airport and which can be removed without structural damage to the Leased Premises or any other City-owned property, shall remain the property of Airline unless otherwise provided in subsequent agreements between Airline and City, and Airline shall have the right at any time during the term of this Agreement and prior to its expiration or early termination to remove any and all of said property from the Airport provided Airline is not in default in its payments hereunder (beyond all applicable notice and opportunity to cure periods). Airline agrees to repair or pay for all damages, if any, resulting from such removal. All City property damaged by or as a result of the removal of Airline's property shall be restored at Airline's expense to the same condition as, or better condition than it was prior to such damage. Any and all property not removed by Airline after the expiration of this Agreement, or, if this Agreement ends by early termination, within sixty (60) days after receipt by Airline of a written notice from the Director to remove such property, shall thereupon become a part of the land upon which it is located and title thereto shall thereupon vest in City; and City reserves the right to remove such property not so removed by Airline, any removal by the City shall be at Airline's expense.

Section 4.06. Covenant Against Liens

Airline shall not cause nor permit any lien against the Leased Premises or any improvements thereto to arise out of or accrue from any action or use thereof by Airline; provided, however, that Airline may in good faith contest the validity of any alleged lien.

Section 4.07. City Right of Entry

With reasonable advance notice to Airline with the exception of exigent circumstances, City may enter upon Airline's Exclusive Use Space (1) at any time for any purpose necessary, incidental to or connected with the performance of Airline's obligations hereunder, or in the exercise of City's governmental functions, and (2) upon the termination or cancellation of this Agreement, and such entry or reentry shall not constitute a trespass nor give Airline a cause of action for damages against City.

Section 4.08. Quiet Enjoyment

Upon payment by Airline of the rentals, fees and charges as herein required and subject to performance and compliance by Airline of the covenants, conditions, and agreements on the part of Airline to be performed and complied with hereunder, Airline shall peaceably have and enjoy the rights, uses and privileges of the Airport, its appurtenances and facilities as granted herein.

Article V

RENTALS FEES AND REPORTS

Section 5.01. General

In consideration for the use of the Leased Premises, facilities, rights, and privileges granted hereunder and for the undertakings of City, Airline agrees to pay City, without set-off, the rentals and fees as set forth in this Article V and as calculated according to the procedures of Article VI hereof.

Section 5.02. Statistical Report

A. Airline shall submit in writing to the Director on or before the tenth (10th) day of each month the following statistical information relative to its scheduled, nonscheduled and charter operations at the Airport for the immediately preceding calendar month, in a format consistent with that provided in Exhibit G, attached hereto and by reference made a part hereof for all purposes:

1. Total number of domestic enplaned and deplaned passengers;
2. Total number of international enplaned and deplaned passengers;
3. Total number of domestic originating and connecting passengers;
4. Total number of international originating and connecting passengers;
5. Total number of landings by type of aircraft and maximum gross certificated landed weight;
6. Total pounds of domestic and international air cargo enplaned and deplaned; and
7. Total pounds of domestic and international air mail enplaned and deplaned.

The above statistical information shall be in addition to any other information elsewhere herein required to be submitted by the Airline each month for City's use in calculating landing fees and other charges pertinent to Airline's operations at the Airport.

B. Initially, Airline shall submit in writing to the Director on or before the ninetieth (90th) day following each reporting month the following statistical information by concourse relative to its scheduled, nonscheduled and charter operations at the Airport, in a format consistent with that provided in Exhibit G, attached hereto and by reference made a part hereof for all purposes, the statistical information listed in this Subsection B. Airline acknowledges that it shall make a good faith effort to begin reporting such information listed below on or before the tenth (10th) day of each month by July 1, 2015.

1. Total number of domestic enplaned and deplaned passengers;
2. Total number of international enplaned and deplaned passengers;
3. Total number of domestic originating and connecting passengers;
4. Total number of international originating and connecting passengers;
5. Total number of international enplaned and deplaned passengers by region (i.e. Mexico, Caribbean, and Latin America).

Section 5.03. Terminal Complex Rentals/Fees

Airline shall pay City for its Leased Premises monthly rent or fees based on the annual rental rates/fee schedules for the Terminal Complex calculated each Fiscal Year in accordance with Article VI.

Section 5.04 Central Terminal/Central Concourse Passenger Loading Bridges and Baggage Handling Systems

Airline shall pay City monthly for its preferential use of the City-owned passenger loading bridges and City-owned baggage handling systems in the Terminal Complex as an additional rental charge associated with Airline's Leased Premises if such passenger loading bridge and/or baggage handling system is installed in the Terminal Complex. Such charges shall be calculated each Fiscal Year in accordance with Article VI hereof.

Section 5.05. Terminal Apron Area Rentals

Airline shall pay City for the Central Concourse Apron Area monthly rent based on the annual apron fee rates calculated each Fiscal Year in accordance with Article VI hereof.

Section 5.06. Landing Fees

Airline shall pay City for its use of the Airfield monthly landing fees based on the annual landing fee rate calculated each Fiscal Year in accordance with Article VI hereof. City will use its best efforts to charge and collect landing fees from all commercial air transportation users of the Airfield as Director may reasonably determine. As determined by City, the fees payable by noncommercial air transportation users for the use of the Airfield may be based on some method other than aircraft landed weight.

Section 5.07. Other Fees, Charges and Credits

A. Utilities. With respect to its Leased Premises and Airline-installed equipment, machinery and facilities, Airline agrees to pay all water, sewage, electricity, gas and other utility charges which may be charged to Airline for the use thereof, if such charges are separately assessed or metered as appropriate to Airline. Utility bills for metered utilities furnished by the City will be paid monthly or less frequently depending on billing schedule established by the City. For those areas not separately metered, including exclusive, preferential, and common space, charges for utility services (other than illumination which is to be provided by City and included in the base rental rate) will be assessed by City on a proportionate basis related to area leased or number of fixtures served. Meters will be installed where it is economically and mechanically feasible.

B. Security Fines or Penalties. Any fines or penalties assessed against City because of Airline's noncompliance with 49 CFR Parts 1540 and 1542 shall promptly be reimbursed to City by Airline within thirty (30) days of receipt of written notice from the Director setting forth the amount of such fine or penalty; provided, however, that such payment shall not be construed as waiving Airline's right to contest such fine or penalty.

C. Other. City reserves the right to assess, and Airline agrees to pay reasonable charges for the use of City-provided facilities, equipment and services including but not limited to: telecommunication trunk equipment charges, employee parking facilities and issuance of security identification badges.

Section 5.08. Security Deposit

The amount of security deposit required by this section shall be three (3) times Airline's average monthly amount of rentals and fees payable under this Agreement unless Director, in his sole discretion, determines that Airline qualifies for relief from such requirement. At a minimum to qualify for such relief, (a) Airline must have provided regularly scheduled passenger flights to and from the Airport for the twelve (12) consecutive months prior to the Effective Date of the Agreement and must have made timely payments of all applicable rentals and fees or (b) Airline proves to the Director's satisfaction that it is not required to provide security deposit because Airline has provided service to at least ten other airports in the United States for said twelve months and has not been delinquent in payment of rentals and fees to such airports.

In the event Airline, at any time during the Term of this Agreement, fails to make any of the payments required under this Article V when due, City reserves the continuing right to require a security deposit in an amount equal to three (3) times Airline's average monthly amount of rentals and fees payable under this Agreement, during the immediately preceding three-month period.

Such security deposit shall be provided to City by Airline, as a letter of credit or in such other form specified by the Director, within thirty (30) days of written demand therefor by Director and shall be held by City until Airline has made timely payment of all rentals and fees payable under this Agreement for a period of twelve (12) consecutive months at which time such security deposit shall be returned to Airline, subject to the continuing right to require a security deposit in the future for failure to make timely payments to the City.

Section 5.09. Payment Provisions

A. Central Terminal/Central Concourse Rentals and Central Concourse Apron Area Fees. Central Terminal/Concourse rentals (to include, as applicable, Passenger Loading Bridge Charges and/or the Baggage Handling System Charges), and Central Concourse Apron Area fees shall be due and payable on the first day of each month in advance without invoice from the City.

B. West Terminal/West Concourse, West Concourse Apron Area and FIS Fees. Following the DBO of the Project, fees for Airline's use of the West Terminal/West Concourse, West Concourse Apron Area and FIS shall be due and payable, without invoice from the City, on or before the tenth (10th) day following the last day of the preceding month and shall be transmitted to City together with Airline's monthly statistical report for the month as required in Section 5.02 hereof.

C. Landing Fees. Landing fees for each month shall be due and payable without invoice from the City on or before the tenth (10th) day following the last day of the preceding month and shall be transmitted to City together with Airline's monthly statistical report for the month as required in Section 5.02 hereof.

D. Other Fees. All other rentals, fees, and charges required hereunder shall be due and payable within thirty (30) days of the date of the invoice therefor.

E. Right of City to Verify Airline's Payment. The acceptance of any payment made by Airline shall not preclude City from verifying the accuracy of Airline's report and computations or from recovering any additional payment actually due from Airline or preclude Airline from later demonstrating that Airline's report was inaccurate and that a lesser amount was properly owed (and to recover any such overpayment).

F. Interest on Overdue Amounts. Any payment not received within five (5) business days of the due date may accrue interest at the rate of 1.5% per month from the due date until the date when full payment is made.

G. Form of Payment. Payments shall be made to the order of “Houston Airport System” and shall be sent to the Director's office or such other place as may be designated by the Director from time to time.

Section 5.10 Third-Party Service Providers

City may, at the sole discretion of the Director, impose fees on third-party service providers, contractors or suppliers accessing the Airport and charge a nominal fee of up to \$200 per month to offset City's administrative costs for executing such agreements.

Section 5.11 Premium for Non-Signatory Airlines

Non-Signatory Airlines will pay a premium of twenty-five percent (25%) on all rates, fees and charges. For the purpose of calculating annual rates, fees and charges, all premiums paid by Non-Signatory Airlines will be credited to reduce the requirement in each appropriate cost center, except as otherwise noted herein.

Section 5.12 No Other Fees and Charges

City agrees that it will not impose any rental, fee or charge, direct or indirect, on Airline for the exercise and enjoyment of the rights and privileges granted herein except those rentals, fees and charges provided for in this Agreement, and such other rentals, fees and charges as are mutually agreed upon by City and Airline; provided, however, there is excepted from this provision any and all fees and charges imposed, authorized or required by any rule, regulation or law of any governmental authority other than City. This provision is not intended to prevent City from making agreements concerning rentals, fees and charges with individuals or firms providing goods or services on the Airport who are tenants of City.

Article VI

CALCULATION OF RENTALS AND FEES

Section 6.01. General

For each Fiscal Year, rentals and fees will be reviewed and calculated based on the principles and procedures set forth in this Article. The methodology for the calculation of airline rentals and fees described in this Article VI is illustrated in Exhibit H. For rate-setting purposes, the calculations will be made on the basis of HAS estimates of costs and expenses and estimates of passengers and total landed weight and shall be provided to Airline at least thirty (30) days prior to the beginning of the Fiscal Year. For final settlement purposes, all calculations will be made on the basis of actual costs and expenses incurred and actual passengers and total landed weight and will be provided to Airline as soon as possible following the completion of the annual audit of the HAS's financial statements.

Section 6.02. Central Terminal/Central Concourse Rental Rates

The total requirement for Central Terminal/Central Concourse Airport Cost Center will be calculated by adding together the following amounts:

1. Direct and indirect Operation and Maintenance Expenses allocable to the Central Terminal/Central Concourse.
2. Amortization of the un-amortized net cost of each Capital Improvement in or allocable to the Central Terminal/Central Concourse as of June 30, 1998, over the remaining Useful Life of the Capital Improvement at the City's weighted Cost of Capital for all Capital Improvements as of that date.
3. Amortization of the net cost of each Capital Improvement placed in service in or allocable to the Central Terminal/Central Concourse on or after July 1, 1998.
4. Annual replenishment of the Renewal and Replacement Fund allocable to the Central Terminal/Central Concourse area, if necessary, as required by the City's Bond Ordinances.
5. Fifty percent (50%) of the annual O&M Expenses and total Amortization of the Terminal Roadways Airport Cost Center.

The annual rental rate for the Central Terminal/Central Concourse will be calculated by subtracting the Non-Signatory Airlines premiums collected within the Central Terminal/Central Concourse Airport Cost Center from the total of the items in Section 6.02(1) thru (5) above, then dividing the result by the total Usable Space in the Central Terminal/Central Concourse. The annual rent will be calculated by multiplying the Airline's total square footage of its Leased Premises in the Central Terminal/Central Concourse by the annual rental rate calculated above for each Fiscal Year.

Additionally, a Base Capital Charge of \$2.50 per square foot will be added to the rental rate for Leased Premises within the space set forth in Exhibit J.

Section 6.03. Central Concourse Apron Area Rental Rates

The total requirement for the Central Concourse Apron Area Airport Cost Center will be calculated by adding together the following amounts:

1. Direct and indirect Operation and Maintenance Expenses allocable to the Central Concourse Apron Area.
2. Amortization of the un-amortized net cost of each Capital Improvement in or allocable to the Central Concourse Apron Area (including

improvements associated with the fuel system) as of June 30, 1998, over the remaining useful life of the Capital Improvement at the City's weighted Cost of Capital for all Airport Capital Improvements as of that date.

3. Amortization of the net cost of each Capital Improvement placed in service in or allocable to the Central Concourse Apron Area on or after July 1, 1998.
4. Annual replenishment of the Renewal and Replacement Fund allocable to the Central Concourse Apron Area, if necessary, as required by the City's Bond Ordinances.

The annual Central Concourse Apron Area Fee Rate will then be calculated by subtracting the Non-Signatory Airline premiums collected within the Central Concourse Apron Area Airport Cost Center from the total of items in Section 6.03(1) thru (4) above, dividing the total costs allocable to the Central Concourse Apron Area by the total square footage of pavement designated as the Central Concourse Apron Area.

Section 6.04. West Terminal/West Concourse and West Concourse Apron Area Fees

The total requirement for the West Terminal/West Concourse and West Concourse Apron Area Airport Cost Center will be calculated by adding together the following amounts:

1. Direct and indirect Operation and Maintenance Expenses allocable to the West Terminal/West Concourse and West Concourse Apron Area.
2. Amortization of the net cost of each Capital Improvement placed in service in or allocable to the West Terminal/West Concourse and West Concourse Apron Area on or after DBO.
3. Amortization of Southwest's Investment in the Project comprising the West Terminal/West Concourse and West Concourse Apron Area as of DBO, over a twenty-five (25) year period as defined in this Agreement.
4. Annual replenishment of the Renewal and Replacement Fund allocable to the West Terminal/West Concourse and West Concourse Apron Area, if necessary, as required by the City's Bond Ordinances.

A. West Terminal/West Concourse concession space. To calculate an annual cost for the concession space on the West Terminal/West Concourse the City will calculate a cost per square foot by dividing the sum of 6.04 (1), (2) and (4) above, less any costs included in 6.04 (1), (2) and (4) above associated with the West Concourse Apron by the total square footage of the West Terminal/West Concourse. Such square foot rate will then be multiplied by the concession

space square footage in the West Terminal/West Concourse. The result is the City's annual cost of the West Terminal/West Concourse concession space.

B. West Terminal/West Concourse ticketing, ticket queuing and office space. If applicable, to calculate an annual cost for the ticketing, ticket queuing and office space on the West Terminal/West Concourse the City will calculate a cost per square foot by dividing the sum of 6.04 (1) thru (4) above, less any costs included in 6.04 (1) thru (4) above associated with the West Concourse Apron and the result of 6.04 (A) above by the total square footage of the West Terminal/West Concourse. Such square foot rate will then be multiplied by the ticketing, ticket queuing and office space square footage in the West Terminal/West Concourse. The result is the cost of the West Terminal/West Concourse ticketing, ticket queuing and office space. The annual rent will be calculated by multiplying the Airline's total square footage of its ticketing, ticket queuing and office space in the West Terminal/West Concourse by the annual rental rate calculated in this Section 6.04 (B) for each Fiscal Year.

C. The initial fees for the West Terminal/West Concourse and West Concourse Apron Area will be then be calculated by subtracting the Non-Signatory Airlines premiums collected within the West Terminal/West Concourse Airport Cost Center and the total results from 6.04 (A) and (B) above from the total of the items in Section 6.04 (1) thru (4) above and further subtracting applicable amounts collected under Section 2.09(B) and Section 6.18(B) (if any), then dividing the result by 750,000, which represents the base estimate of International Deplaned Passengers in the West Terminal/West Concourse in the initial Fiscal Year in which DBO occurs (pro-rated as applicable in such initial Fiscal Year). The resulting fee, multiplied by the actual number of International Deplaned Passengers in the West Terminal/West Concourse in any given month, shall be the amount payable to the City for the use of the West Terminal/West Concourse and West Concourse Apron Area for the previous month. International Deplaned Passengers in the West Terminal/West Concourse will be adjusted at the end of the Fiscal Year following DBO to reflect the actual International Deplaned Passengers in the West Terminal/West Concourse.

In each subsequent fiscal year, fees for the West Terminal/West Concourse and West Concourse Apron Area will be then be calculated by subtracting the Non-Signatory Airlines premiums collected within the West Terminal/West Concourse Airport Cost Center and the total results from 6.04 (A) and (B) above from the total of the items in Section 6.04 (1) thru (4) above and further subtracting any amounts collected under Section 2.09(B) and Section 6.18(B) (if any), then dividing the result by International Deplaned Passengers in the West Terminal/West Concourse.

Section 6.05. FIS Fees

The total requirement for the FIS Airport Cost Center will be calculated by adding together the following amounts:

1. Direct and indirect Operation and Maintenance Expenses allocable to the FIS.

2. Amortization of the net cost of each Capital Improvement placed in service in or allocable to the FIS on or after DBO.
3. Amortization of Southwest's Investment in the Project comprising the FIS as of DBO (i.e., capital costs associated with the FIS), over a twenty-five (25) year period as defined in this Agreement.
4. Annual replenishment of the Renewal and Replacement Fund allocable to the FIS area, if necessary, as required by the City's Bond Ordinances.

The initial fees for the FIS will be then be calculated by subtracting the Non-Signatory Airlines premiums collected within the FIS Airport Cost Center from the total of the items in Section 6.05 (1) thru (4) above, then dividing the result by 750,000, which represents the base estimate of International Deplaned Passengers in the FIS in the initial Fiscal Year in which DBO occurs (pro-rated as applicable in such initial Fiscal Year). The resulting fee, multiplied by the actual number of International Deplaned Passengers in the FIS in any given month, shall be the amount payable to the City for the use of the FIS for the previous month. International Deplaned Passengers in the FIS will be adjusted at the end of the Fiscal Year following DBO to reflect the actual International Deplaned Passengers in the FIS.

In each subsequent fiscal year, fees for the FIS will be then be calculated by subtracting the Non-Signatory Airlines premiums collected within the FIS Cost Center from the total of the items in Section 6.05 (1) thru (4) above, then dividing the result by International Deplaned Passengers in the FIS.

Section 6.06. Central Terminal/Central Concourse Passenger Loading Bridge Charges

The total requirement for the City-owned passenger loading bridges in the Central Concourse (if applicable) sub-cost centers will be calculated by adding together the following amounts:

1. Direct and indirect Operation and Maintenance Expenses allocable to the passenger loading bridges.
2. Amortization of the net cost of the passenger loading bridges (using a Useful Life of 15 years).

The annual Passenger Loading Bridge Charge will then be calculated by subtracting the Non-Signatory Airlines premiums collected for use of the City-owned passenger loading bridges in the Central Concourse from the total requirement allocable to the City-owned passenger loading bridges and then dividing by the total number of City-owned passenger loading bridges installed to determine an average passenger loading bridge charge.

Section 6.07. Central Terminal/Central Concourse Baggage Handling System Equipment Charges

- A. Baggage Claim Equipment.** The total requirement for the baggage claim

equipment in the Central Terminal/Central Concourse (if applicable) will be calculated by adding together the following amounts:

1. Direct and indirect Operation and Maintenance Expenses allocable to the baggage claim equipment.
2. Amortization of the net cost of the baggage claim equipment (using a Useful Life of 15 years).

The annual baggage claim equipment charges will then be calculated by subtracting the Non-Signatory Airlines premiums collected for use of the baggage claim equipment from the total requirement allocable to the baggage claim equipment and the result will be allocated to each Signatory Airline as specified in Section 6.09 herein.

B. Outbound Baggage Equipment. Multiple outbound baggage equipment exists at the Airport and are shown in Exhibit C hereto. The total requirement for each outbound baggage equipment in the Central Terminal/Central Concourse (if applicable) will be calculated by adding together the following amounts:

1. Direct and indirect Operation and Maintenance Expenses allocable to each outbound baggage equipment.
2. Amortization of the net cost of each outbound baggage equipment (using a Useful Life of 15 years).

The annual outbound baggage equipment charges will then be calculated by subtracting the Non-Signatory Airlines premiums collected for use of the specific outbound baggage equipment from the total requirement allocable to each outbound baggage equipment and the result will be allocated to each Signatory Airline as specified in Section 6.09 herein, depending on which outbound baggage equipment is assigned.

Section 6.08. Landing Fee Rate

The total requirement for the Airfield Airport Cost Center will be calculated by adding together the following amounts:

1. Direct and indirect Operation and Maintenance Expenses allocable to the Airfield.
2. Amortization of the un-amortized net cost of each Capital Improvement in or allocable to the Airfield as of June 30, 1998, over the remaining useful life of the Capital Improvement at the City's weighted Cost of Capital for all Airport Capital Improvements as of that date.
3. Amortization of the net cost of each Capital Improvement placed in service in or allocable to the Airfield on or after July 1, 1998.

4. Interest on the cost of land allocable to the Airfield computed at City's historical average Cost of Capital.
5. Annual replenishment of the Renewal and Replacement Fund allocable to the Airfield, if necessary, as required by the City's Bond Ordinances.

The net requirement of the Airfield Airport Cost Center will then be calculated by subtracting revenues from general aviation landing fees (if any), general aviation fuel flowage fees and premiums paid by Non-Signatory Airlines from the total requirement. The Landing Fee Rate will then be calculated by dividing the net requirement of the Airfield by the sum of the landed weight for the 1) Signatory Airlines and 2) Non-Signatory Airlines. The landing fee will be calculated by multiplying Airline's landed weight for the applicable month by the landing fee rate calculated each Fiscal Year.

Section 6.09 Joint Use Rental Rates. The aggregate rental cost of all Joint Use Space shall be prorated among the airline users of such space as follows:

1. Twenty percent (20%) of the aggregate rental cost of the space shall be apportioned equally among the Signatory Airlines entitled to use the Joint Use Space.
2. Eighty percent (80%) of the aggregate rental cost of the space shall be apportioned among the Signatory Airlines entitled to use the Joint Use Space based on Enplaned Passengers.

Non-Signatory Airlines using Joint Use Space shall be assessed a twenty-five percent (25%) premium for these charges. The basis for the proration of the rental cost of all such Joint Use Space may be adjusted every six-months throughout the Term if the actual basis increases or decreases by more than ten percent (10%) from the budgeted amount. Such adjustments shall take place at the end of June of each year to be effective July 1 of that upcoming Fiscal Year and at the end of December of each year to be effective January 1 of that Fiscal Year. Such adjustments shall use Enplaned Passenger figures for the preceding six-month period at the Airport as follows: for adjustments in June, the prior six-month period ending April 30 will be used; for the adjustments in December, the prior six-month period ending October 31 will be used.

It is acknowledged that multiple baggage make-up areas exist for which the rental cost shall be prorated only among the assigned users of such areas.

Section 6.10 Security Screening Rental Rates. The aggregate rental cost of all Security Screening Space shall be allocated as follows:

1. Fifty percent (50%) of the aggregate rental cost of the space shall be allocated to the airline users of such space in the same manner as described in the Joint Use Rental Rate calculation set forth in Section 6.09 above.
2. Fifty percent (50%) of the aggregate rental cost of the space shall be apportioned to HAS space.

Section 6.11. Credits to Southwest

For fees or rent charged directly to Southwest that include amortization of Southwest's Investment in the Project, Southwest will receive a monthly credit beginning upon DBO equal to one-twelfth (1/12) of the annual amount of such amortization, until or unless there is a buy-out of Southwest's Investment in the Project. Additionally, for the amounts collected from users, other than Southwest, for the Amortization of Southwest's Investment in the Project, City will separately credit Southwest monthly for such amounts received.

Section 6.12. Incremental Inside Concession Revenue Credit Applicable to Long-Term Signatory Airlines.

Following the first anniversary of the Effective Date and each anniversary thereafter for the Term of this Agreement, an Inside Concession Revenue credit shall be issued to Long-Term Signatory Airlines for each year in which the total Enplaned Passengers are greater than the baseline Enplaned Passengers. The baseline Enplaned Passengers shall be determined as the number of Enplaned Passengers at the Airport in the prior twelve calendar months preceding the Effective Date ("Baseline Passengers"). If a credit is to be made available, the credit will be calculated for the Long-Term Signatory Airlines as follows and as depicted in Exhibit L:

- Step 1: Subtract the Baseline Passengers from the current year Enplaned Passengers.
- Step 2: Divide the current year total Inside Concession Revenue by the current year total Enplaned Passengers.
- Step 3: Multiply the result of Step 1 by the result of Step 2. In no event will the total Incremental Inside Concession Revenue credit exceed \$3,900,000.
- Step 4: Allocate the result of Step 3 by the number of Enplaned Passengers of current Long-Term Signatory Airlines.

The City will calculate and notify the Long-Term Signatory Airlines of the Inside Concession Revenue credit within thirty (30) calendar days of receiving i) all airline statistical reports; and ii) all inside concession vendor reports, for the current year calculation. The Inside Concession Revenue credit will then be issued within fifteen (15) calendar days of such notification. The Inside Concession Revenue credit will be issued as a credit against the Long-Term Signatory Airlines rentals and fees.

Section 6.13. Mid-Year Rate Adjustments

In the event that, at any time during a Fiscal Year, the total costs of the Terminal Complex, Terminal Apron Area, or Airfield, or the aggregate Total Landed Weight of all

airlines, is projected by City to vary ten percent (10%) or more from the estimates used in setting Terminal Complex Rental Rates, the Terminal Apron Area Fee Rates, or the Landing Fee Rate, such rates may be adjusted either up or down for the balance of such Fiscal Year, provided that such adjustment is deemed necessary by City. An upward adjustment shall only be used to ensure that adequate revenues will be available from such fees to recover the estimated total costs of the airline-supported cost centers. For each such adjustment, City shall provide Airline with a written explanation of the basis for the rate adjustment(s) and will provide thirty (30) days advance written notice before putting such adjustment(s) into effect. Unless extraordinary circumstances warrant additional adjustments, City will seek to limit such rate adjustments to no more than once each Fiscal Year.

Section 6.14. Year-End Adjustments to Actual and Settlement

As soon as possible following the close of each Fiscal Year, City shall furnish Airline with an accounting of the costs and expenses actually incurred, revenues and other credits actually realized (reconciled to the audited financial statements of the Airport System), actual enplaned passengers, actual deplaned international passengers and landed weights during such Fiscal Year with respect to all rates, fees and charges calculated in accordance with this Article VI and shall recalculate the rates, fees, and charges required for the Fiscal Year based on those actual costs and revenues. City shall convene a meeting of the airlines to discuss the calculation of the year-end settlement.

In the event that Airline's rentals, fees, and charges billed and paid during the Fiscal Year were more than the amount of Airline's rentals, fees, and charges required (as recalculated based on actual costs and revenues), such excess amount shall be issued as a credit to Airline within sixty (60) days of the meeting convened by the City to discuss the calculation of the year-end settlement.

In the event that Airline's rentals, fees, and charges billed and paid during the Fiscal Year were less than the amount of Airline's rentals, fees, and charges required (as recalculated based on actual costs and revenues), such deficiency shall be billed to Airline after the meeting convened by the City to discuss the calculation of the year-end settlement and payable by Airline within sixty (60) days of the date of invoice. However, in the event that the amount of the Airline deficiency is more than ten percent (10%) of total rentals, fees, and charges billed and paid by the Airline during the Fiscal Year (which deficiency must be at least \$25,000), Airline may pay the deficiency to City in three equal monthly installments without interest.

Section 6.15. Cost Control Measures

To promote competition at the Airport, the City will, subject to its covenants set forth in the Bond Ordinances, implement cost control measures which are intended to limit the growth in the airline cost per enplaned passenger in the following three Airport Cost Centers: (i) Central Terminal/Central Concourse, (ii) Central Concourse Apron, and (iii) Airfield.

A. The City will not levy fees or charges pursuant to this Agreement which would result in the actual total cost per Domestic Enplaned Passenger for the combined three designated

Airport Cost Centers to exceed the total cost per Domestic Enplaned Passenger for those Airport Cost Centers for the year ending June 30, 2012, adjusted by the cumulative CPI through the year of calculation.

B. Until June 30, 2025, the number of Domestic Enplaned Passengers used for calculating the airline cost per enplanement for the Airport Cost Centers listed above in this Section 6.15 will be the greater of (i) the actual number of Domestic Enplaned Passengers in the Fiscal Year then ending or (ii) the number of Domestic Enplaned Passengers in the year ending June 30, 2012.

C. Beginning July 1, 2025, through the Expiration Date, the number of Domestic Enplaned Passengers used for calculating the airline cost per Domestic Enplaned Passenger in the designated Airport Cost Centers will be the greater of (i) the actual number of Domestic Enplaned Passengers in the Fiscal Year then ending or (ii) the greatest number of Domestic Enplaned Passengers in the three Fiscal Years preceding July 1, 2025.

D. If, during the Fiscal Year settlement process, it is discovered that the City levied fees or charges in the previous Fiscal Year in excess of the amounts allowed under this Section 6.15, the difference between such over collection and the amounts allowed under this Section 6.15 shall be issued to Airline in the form of a credit memo to be applied against future rates, fees and charges owed by Airline at the Airport. Such credit shall be applied on a per-enplanement basis.

E. In recognition of the impracticality of HAS anticipating or controlling certain unforeseen Airport expenses, the City's cost control obligations under this Section shall not include, and the calculation of the airline cost per Domestic Enplaned Passenger for purposes of these cost control measures shall exclude, all fees and charges in connection with the following expenditures by HAS:

1. Expenditures mandated, but not fully funded, by the federal government, including but not limited to the Federal Aviation Administration, Transportation Security Administration, Department of Transportation, Department of Homeland Security, or the Environmental Protection Agency. For purposes of this subparagraph, an expenditure will be considered to be mandated if (i) it is directly ordered by the applicable governmental authority, (ii) failure to make the expenditure could subject the City or HAS to penalties or remedial or corrective action, or (iii) an agency inspector notes a deficiency which would require an expenditure by the City or HAS to correct.
2. Expenditures mandated but not fully funded by the City (that apply on a City-wide basis without specific application to the Airport), Harris County or the State of Texas.
3. Expenditures in connection with the repair or replacement of facilities as a result of casualty damage to Airport property, net of any insurance proceeds, which HAS determines must be repaired or rebuilt in order for

HAS to satisfy its obligations under this Agreement, any bond covenants, other agreements with Airport tenants, or any requirement of law, regulation, policy or directive of a governmental authority.

F. Upon request by Airline, the City shall, to the extent not otherwise prohibited by law, regulation, policy or directive, substantiate the cost excluded under the prior subparagraph and identify the applicable law, regulation, policy or directive.

G. The City's cost control measure will cease should applicable federal law or regulations limit the amount or eligibility of the City to levy Passenger Facility Charges beyond the limits and eligibility in existence at the Execution Date.

H. The City's covenants set forth in this Section 6.15 shall be subordinate in all respects to the City's covenants set forth in the Bond Ordinances.

Section 6.16. Commitments on PFCs

In recognition of the City's stated intent to control airport costs, Airline acknowledges the City's right to levy and use Passenger Facility Charges (PFCs) for any lawful purpose pursuant to 14 CFR Part 158. Airline supports the Airport's use and level of PFCs. This support shall in no manner affect the City's obligation to consult with Airline or to follow other procedures required by the City pursuant to 14 CFR Part 158 (or such successor regulation).

Section 6.17. Extraordinary Coverage Protection

Airline shall pay Extraordinary Coverage Protection for any Fiscal Year in which the amount of gross revenues less operation and maintenance expenses (as calculated under Bond Ordinances) at the Airport is projected or calculated to be less than 125% of the annual debt service requirement for outstanding debt of HAS (as calculated under the Bond Ordinances) for the Airport (the "Coverage Test"). Airline shall begin to make extraordinary coverage protection payments during such Fiscal Year the Coverage Test is projected or calculated to be less than 125%. Such payments, if required, will be charged to the Signatory Airlines by the City on a per-Enplaned Passenger basis among such Signatory Airlines. Should extraordinary coverage protection payments be made, City will refund via credit in the subsequent Fiscal Year to the Signatory Airlines such payments made by each Signatory Airline as soon as the Coverage Test is satisfied on a basis subordinate to the City's payment of debt service and other deposits under the Bond Ordinances.

Section 6.18. Per Use Charges

A. For Signatory Airlines utilizing Common Use space or space leased to another Signatory Airline on the Central Concourse, the City shall ensure that it charges at least the amount Non-Signatory Airlines would pay for the use of such space at the Airport, however Signatory Airlines will not be subject to the 25% Non-Signatory Airlines premium. The City will review and amend such methodology from time to time to achieve this goal.

B. For Signatory Airlines utilizing Common Use Gates or space leased to another Signatory Airline on the West Concourse for domestic arrivals, the City shall charge the Common Use Gate fee in Section 6.18(A). Non-Signatory Airlines would be subject to the 25% Non-Signatory Airlines premium. All amounts collected pursuant to this Section 6.18 shall reduce the total requirement calculated in Section 6.04.

Section 6.19. Project Credits to Southwest

A. Within 90 days after Southwest has provided the Director with a final certification of total costs spent on the Project as provided in Section 7.01, the City shall issue rental credits to Southwest equaling:

1. The amount Southwest spent on the Project to improve the pre-DBO space (non-International Facility space); plus
2. The amount Southwest spent to construct shell space in the International Facility intended for use by HAS or for lease or use by third parties, as authorized by the Director. Such amount shall be determined by multiplying the square footage of such space by the average rate per square foot for unfinished shell space in the West Terminal/West Concourse and FIS.

B. The credits to Southwest calculated in Section 6.19(A) above shall offset the amount of rates and charges Southwest owes at the Airport and shall be subject to funding appropriation by City Council.

Article VII

CONSTRUCTION OF IMPROVEMENTS

Section 7.01. Construction of the Project by Southwest

Beginning on the Execution Date, the terms and conditions under which Southwest will design and construct the Project are set forth in this Section 7.01, Sections 14.02 C and D of the Agreement and the MOA, which is incorporated herein by reference.

A. Within 30 days of DBO, Southwest shall provide the Director with a preliminary estimate of total costs spent on the Project. Within nine months of DBO, Southwest shall provide the Director with a final certification of total costs spent on the Project and supporting documentation, including a breakdown between the construction cost of shell space, and finished space, all of which shall be subject to audit by City.

B. Southwest shall provide electronic data to HAS on a timely basis in order for HAS to populate the Project Control System for the Project. Additionally, Southwest shall obtain all

temporary and final certificates of occupancy on the Project and it shall provide a certification of Project completion to the Director.

C. S/MWBE. Best Efforts shall be used to cause Southwest's contractors for the Project to meet the following S/MWBE participation goals: (i) for professional services, twenty-five percent (25%) certified S/MWBE; and (ii) for construction, twenty-five percent (25%) certified minority-owned business enterprises, and three percent (3%) certified small business enterprises. Reports shall be provided in a form acceptable to the Director or the City's Director of the Mayor's Office of Business Opportunity. The City shall have the right to audit compliance efforts under this subsection throughout the term of this Agreement in the same manner as it audits other City contractors.

As part of using Best Efforts under this Section 7.01 only, Southwest, at a minimum, agrees to:

1. Coordinate, with the City of Houston, an outreach program (if and as applicable) to target the local certified small, minority and women businesses to participate in contracting opportunities, which outreach program will include outreach to organizations and trade associations that serve small, minority and women as it pertains to the relevant scope of work.
2. Provide to the City, for posting on the City and HAS websites, and additionally work with the City to notify pertinent organizations that serve small, minority and women-owned businesses, its request for proposals for construction, along with the requirements of the Project.
3. Develop a strategy to create bid packages in size and scope that will encourage maximum opportunity for S/MWBE participation.
4. Designate an S/MWBE liaison officer who will coordinate any S/MWBE efforts and maintenance of records, as required herein, with the City.
5. Report the S/MWBE utilization as provided in this Section 7.01.
6. Meet no less than once a month with the City's Office of Business Opportunity to discuss S/MWBE performance and participation.

D. Drug Free Work Place. Southwest shall contractually require its contractors for the Project to comply with the City's Drug Detection and Deterrence Procedures for Contractors as set forth in the City of Houston Executive Order 1-31, as amended, which is incorporated into this Agreement by this reference.

E. Prevailing Wages. Southwest shall comply with Section 2258, Texas Government Code, with respect to prevailing wages as if it were a political subdivision of the state, and (ii) shall include in all of its construction contracts an obligation for its contractors and subcontractors to comply with Section 2258, Texas Government Code, with respect to paying workers prevailing wages and reporting requirements.

F. Pay or Play. Southwest shall contractually require its contractors for the Project to comply with the City's Pay or Play Program, as set out in Executive Order 1-7 and Ordinance 2007-504 which are incorporated into this Agreement by this reference.

G. Warranties. Southwest shall warrant and obtain warranties from its construction contractors, all of which warranties shall be for the benefit of the City and Southwest and in compliance with Texas law. Southwest shall prepare a Schedule of Warranties for the Project. Except as otherwise provided in the Schedule of Warranties for the Project, Southwest warrants that upon the DBO that:

1. The Project is free from all faults and defects, including those due to faulty materials or workmanship, and will so for a year following DBO.
2. All parts, materials, components, equipment, systems and other items incorporated as part of the Project shall be new, unless otherwise specified in the construction documents or otherwise agreed to by the City, and suitable for the purpose used, and will be of good quality and in conformance with the construction documents in all material respects. When requested by the Director, Southwest shall furnish satisfactory evidence that the kind and quality of materials and equipment incorporated into the Project satisfy the construction documents.
3. Except as provided in Section 7.05, the City has full title to all parts, materials, components, equipment, and other items incorporated into the Project, that its transfer of such title to the City is rightful, and that all such parts, materials, components, equipment, and other items shall be transferred free and clear of all security interests, liens, claims, or encumbrances whatsoever. Southwest agrees to defend such title against all persons claiming the whole or any part thereof.
4. All warranties shall have a term of not less than one (1) year from the date of acceptance by Southwest and shall be submitted to Director prior to the final completion of the Project or the portion thereof covered by any such warranty.
5. To the extent the Schedule of Warranties mandates longer warranty terms, Southwest shall provide such terms.
6. The City agrees that Southwest has the right to authorize its representatives and agents to make any claims, on the City's behalf under the warranties.
7. The City's rights under the warranties shall not be adversely affected by the termination of this Agreement.

H. Payment of Contractors and Subs. Southwest shall make timely payments to its construction contractors and all other subcontractors supplying labor, materials, or equipment for the performance of the Project. **SOUTHWEST SHALL DEFEND AND INDEMNIFY THE CITY FROM ANY CLAIMS ARISING OUT OF SOUTHWEST'S FAILURE TO MAKE THESE PAYMENTS.** Nothing contained in this Agreement shall grant or be deemed to grant to any

Contractor, subcontractor or any other person engaged by Southwest or their subcontractors in the performance of any part of the Project, any right of action or claim against the City, its officers, agents, employees, and representatives with respect to any work any of them may do in connection with the Project. Nothing contained in this Agreement shall create or be deemed to create any relationship between the City and any Southwest contractor, subcontractor or any other person engaged by Southwest or any of its contractors or subcontractors in the performance of the services for the Project. The City shall not be responsible to any of the foregoing for any payments due or alleged to be due for any work performed or materials purchased in connection with the Project. Southwest shall ensure that all payments are timely made to all Project creditors and suppliers and that the Project is free of all liens, claims, and security interests, or any other encumbrances.

I. Civic Art. The Project is declared to be an Eligible Project under Ordinance No. 2006-731, the Civic Art Program, and Southwest shall comply in all respects with such Ordinance. Such ordinance is hereby incorporated into this Agreement by this reference.

J. Hire Houston First. Southwest shall comply with Ordinance No. 2011-766, Hire Houston First, in all respects and such ordinance is hereby incorporated into this Agreement by this reference. For purposes of the ordinance, Southwest shall be considered the HAS.

K. Indemnification. SOUTHWEST AGREES TO AND SHALL DEFEND, INDEMNIFY, AND HOLD THE CITY, ITS AGENTS, EMPLOYEES, OFFICERS, AND LEGAL REPRESENTATIVES (COLLECTIVELY THE "CITY") HARMLESS FOR ALL CLAIMS, CAUSES OF ACTION, LIABILITIES, FINES, AND EXPENSES (INCLUDING, WITHOUT LIMITATION, ATTORNEYS' FEES, COURT COSTS, AND ALL OTHER DEFENSE COSTS AND INTEREST) FOR INJURY, DEATH, DAMAGE, OR LOSS TO PERSONS OR PROPERTY SUSTAINED IN CONNECTION WITH OR INCIDENTAL TO PERFORMANCE ON THE PROJECT, INCLUDING, WITHOUT LIMITATION, THOSE CAUSED BY:

.1 SOUTHWEST'S AND/OR ITS AGENTS', EMPLOYEES', OFFICERS', DIRECTORS', CONTRACTORS', OR SUBCONTRACTORS' (COLLECTIVELY IN NUMBERED SUBPARAGRAPHS .1 THROUGH .3 "SOUTHWEST") ACTUAL OR ALLEGED NEGLIGENCE OR INTENTIONAL ACTS OR OMISSIONS;

.2 THE CITY'S AND SOUTHWEST'S ACTUAL OR ALLEGED CONCURRENT NEGLIGENCE WHETHER SOUTHWEST IS IMMUNE FROM LIABILITY OR NOT;

.3 THE CITY'S AND SOUTHWEST'S ACTUAL OR ALLEGED STRICT PRODUCTS LIABILITY OR STRICT STATUTORY LIABILITY, WHETHER SOUTHWEST IS IMMUNE FROM LIABILITY OR NOT.

SOUTHWEST SHALL DEFEND, INDEMNIFY, AND HOLD THE CITY HARMLESS DURING THE PROSECUTION OF THE PROJECT AND FOR FOUR YEARS AFTER DBO OF THE PROJECT. SOUTHWEST SHALL NOT INDEMNIFY THE CITY FOR THE CITY'S SOLE NEGLIGENCE.

NOTWITHSTANDING ANYTHING TO THE CONTRARY, THE LIABILITY OF

SOUTHWEST FOR THE CITY'S CONCURRENT NEGLIGENCE SHALL NOT EXCEED \$1,000,000 PER OCCURRENCE.

SOUTHWEST SHALL USE BEST EFFORTS TO INCLUDE THIS SECTION 7.01 (K) INDEMNITY IN ITS CONTRACTS WITH CONTRACTORS, BUT ONLY TO THE EXTENT PERMISSIBLE UNDER TEXAS LAW, NAMING THE CITY AS AN INDEMNITEE.

If the City or Southwest receives notice of any claim or circumstances under which could give rise to an indemnified loss, the receiving party shall give written notice to the other party within 10 days. The notice must include (i) a description of the indemnification event in reasonable detail, (ii) the basis on which indemnification may be due, and (iii) the anticipated amount of the indemnified loss. This notice does not estop or prevent the City from later asserting a different basis for indemnification or a different amount of indemnified loss than that indicated in the initial notice. If the City does not provide this notice within the 10-day period, it does not waive any right to indemnification except to the extent that Southwest is prejudiced, suffers loss, or incurs expense because of the delay.

Southwest may assume the defense of the claim at its own expense with counsel chosen by it that is reasonably satisfactory to the City Attorney. Southwest shall then control the defense and any negotiations to settle the claim. Within 10 days after receiving written notice of the indemnification request, Southwest must advise the City Attorney as to whether or not it will defend the claim. If Southwest does not assume the defense, the City shall assume and control the defense, and all defense expenses constitute an indemnified loss.

If Southwest elects to defend the claim, the City may retain counsel to participate in, but not control, the defense and to participate in, but not control, any settlement negotiations. Southwest may settle the claim without the consent or agreement of the City unless it: (i) would result in injunctive relief or other equitable remedies or otherwise require the City to comply with restrictions or limitations that adversely affect the City; (ii) would require the City to pay amounts that Southwest does not fund in full; or (iii) would not result in the City's full and complete release from all liability to the plaintiffs or claimants who are parties to or otherwise bound by the settlement.

L. Project Insurance. With no intent to limit Southwest's liability or indemnification provisions set forth in Paragraph J above, Southwest shall cause Project contractors to provide and maintain certain insurance in full force and effect until at least final completion of the Project. If any of the insurance is written as "claims made" coverage, then Southwest agrees to cause Project contractors to keep such claims made insurance in full force and effect by purchasing policy period extensions for at least three years after final completion of the Project. The minimum coverage is as follows:

COVERAGE

Workers Compensation:

Employer's Liability:

LIMIT OF LIABILITY

Statutory for Workers' Compensation
Bodily Injury by Accident \$1,000,000 (each accident)
Bodily Injury by Disease \$1,000,000 (policy limit)
Bodily Injury by Disease \$1,000,000 (each employee)

Commercial General Liability: Including Contractor's Protective, Broad Form Property Damage, Contractual Liability, Explosion, Underground and Collapse, Bodily Injury, Personal Injury, Products, and Completed Operations (for a period of one year following completion of the Project).	Combined single limit of \$5,000,000 (each occurrence), subject to general aggregate of \$10,000,000; Products and Completed Operations \$1,000,000 aggregate.
Owner's and Contractor's Protective Liability:	\$1,000,000 combined single limit each Occurrence/aggregate.
Installation Floater:	Value of stored material or equipment, listed on Certificates of Payments, but not yet incorporated into the Work.
Automobile Liability Insurance: (For automobiles furnished by Contractor in course of his performance under the Contract, including Owned, Non-owned, and Hired Auto coverage)	\$5,000,000 combined single limit each Occurrence for (1) Any Auto or (2) All Owned, Hired, and Non-Owned Autos.
Excess Coverage:	\$25,000,000 each Occurrence/combined aggregate in excess of limits specified for Employer's Liability, Commercial General Liability, and Automobile Liability.

Defense costs are excluded from the face amount of policy.

Aggregate Limits are per 12-month policy period unless otherwise indicated.

1. **Professional Liability Coverage.** In connection with the design of the Project, Southwest shall also provide for professional liability coverage in the amount of \$1,000,000 per occurrence; \$2 million aggregate.

2. **Form of Policies.** Insurance may be in one or more policies of insurance, the form of which is subject to approval of the Director. It is agreed, however, that nothing the Director does or fails to do relieves Southwest from its duties to provide the required coverage under this Agreement. The Director's actions or inactions do not waive the City's rights under this Agreement.

3. **Issuers of Policies.** The issuer of any policy shall have a Certificate of Authority to transact insurance business in Texas or have a Best's rating of at least B+ and a Best's Financial Size Category of Class VI or better, according to the most current edition Best's Key Rating Guide, and the issuer must be an eligible nonadmitted insurer in the State of Texas.

4. **Insured Parties.** Each policy, except those for Worker's Compensation, Owner's and Contractor's Protective Liability, and Professional Liability, must name the City and its officers, agents, and employees as Additional Insured parties on the original policy and all renewals or replacements.

5. **Deductibles.** Southwest shall be responsible for and bear any claims or losses to the extent of any deductible amounts and waives any claim it may have for the same against the City, its officers, agents, or employees.

6. **Cancellation.** Southwest shall notify the Director in writing 30 days prior to any cancellation or material change to Southwest's insurance coverage. Within the 30 day period, Southwest shall provide other suitable policies in lieu of those about to be canceled or nonrenewed so as to maintain in effect the required coverage. If Southwest does not comply with this requirement, the Director, at his discretion, may: (i) immediately stop work on the Project, or (ii) or purchase the required insurance with City funds and invoice Southwest for such costs.

7. **Subrogation.** Each policy, except Professional Liability and Owner's and Contractor's Protective Liability must contain an endorsement to the effect that the issuer waives any claim or right of subrogation to recover against the City, its officers, agents, or employees.

8. **Endorsement of Primary Insurance.** Each policy, except Worker's Compensation, Professional Liability, and Contractor's Protective Liability must contain an endorsement that the policy is primary to any other insurance available to the Additional Insured with respect to claims arising under this Agreement.

9. **Liability for Premium.** Southwest is solely responsible for payment of all insurance premiums and the City is not obligated to pay such premiums.

10. **Subcontractors.** Southwest shall ensure that all subcontractors whose subcontracts exceed \$100,000 obtain Commercial General Liability, Workers' Compensation, Employer's Liability and Automobile Liability coverage that meets all the requirements of this Section 7.01 (L) except amount of coverage. The amount of coverage must be commensurate with the amount of the subcontract, but not less than \$500,000 per occurrence. Coverage exposure shall be limited to each subcontractor's scope of work and then, only for the duration of its work on the Project.

11. **Proof of Insurance.** Prior to commencing any work on the Project, Southwest shall furnish the Director with Certificates of Insurance, along with an affidavit from Southwest confirming that the Certificate accurately reflects insurance coverage that is available as required herein. If requested in writing by the Director, Southwest shall furnish with certified copies of Southwest's actual insurance policies. At the time this Agreement is signed, Southwest must furnish to the Director certificates of insurance. These certificates must bear the Project name for which they are issued. If requested by the Director, Southwest must provide the originals of all policies referred to above, or copies certified by the agent or attorney-in-fact issuing them. Southwest shall continuously and without interruption, maintain in force the required insurance coverage specified in this Paragraph K. If Southwest does not comply with this requirement, the Director, at his or her sole discretion, may: (i) immediately suspend Southwest from any further performance under this Agreement and begin procedures to terminate for default, or (ii) purchase the required insurance with City funds and require reimbursement from Southwest. The City shall never waive or be estopped to assert its right to terminate this Agreement because of its acts or omissions regarding its review of insurance documents.

12. **Insurance under Construction Contract.** All insurance policies required under the construction contract(s) must be issued in the name of the Contractor, Southwest and the City, as their interests may appear. In any event, the City (and its officers, agents, and employees) shall be named as additional insured parties on all policies and all renewals or replacements except those for Workers' Compensation, Professional Liability, and Owner's and Contractor's Protective Liability.

M. Performance and Payment Bonds. Southwest shall contractually require that its contractor(s) provide within thirty (30) days prior to commencement of work on the Project, a Performance Bond and a Payment Bond on forms approved in advance by the City, and each in a penal sum required to comply with the Texas Government Code. The bonds shall be issued by a surety company that is authorized and admitted to write surety bonds in the State of Texas and also holds a certificate of authority from the United States Treasury to qualify as surety on obligations permitted or required under federal law. Sureties on the bonds shall designate an agent resident in Harris County to whom any requisite notices may be delivered and on whom service of process may be had in matters arising out of the suretyship. The Payment Bond shall satisfy all statutory requirements applicable to the City and Southwest shall furnish information to a payment bond beneficiary as required by the Texas Government Code.

N. Force Majeure. Timely performance by Southwest is essential to this Project. However, Southwest is not liable for delays or other failures to perform its obligations under this Section 7.01 or the MOA to the extent the delay or failure is caused by Force Majeure. Force Majeure means fires, floods, explosions, and other acts of God, war, terrorist acts, riots, court orders, and the acts of superior governmental or military authority. However, this relief is not applicable unless Southwest uses due diligence to remove the Force Majeure as quickly as possible and provides the Director with prompt written notice of the cause and its anticipated effect. Southwest is not relieved from performing its obligations under this Section 7.01 or the MOA due to a strike or work slowdown of its employees or its contractor's employees. Southwest shall employ only fully trained and qualified personnel during a strike.

If there is a Force Majeure event at the Project site (or impacting the Project from another location) which creates a health or safety concern, as determined by Southwest or the Director, Southwest or the Director shall have the right to immediately suspend all or a portion of the work on the Project with no consequences to Southwest or the City. At such time as the Force Majeure event is resolved, as mutually agreed by Southwest and the Director, Southwest may resume work on the Project.

O. Nonconforming Work. Under Section 3.3 of the MOA, the final design and construction documents must be approved by the Director prior to the commencement of construction by Southwest. Should Southwest fail to construct the Project consistent with the approved design and construction documents, the Director may require that Southwest correct such nonconforming work at its sole cost and expense.

P. Applicability of City Regulations, Ordinances and Executive Orders. For all City regulations, ordinances, and executive orders cited in this Agreement or otherwise incorporated by reference, Southwest's compliance therewith shall be limited to the versions of those regulations, ordinances and executive orders as they exist on the Execution Date.

Q. Incorporation of Provisions into Design and Construction Contracts. Southwest shall contractually require its design and construction contractors to meet the obligations imposed on Southwest by the City under this Article VII, the MOA and Sections 14.02 (C) and (D) of this Agreement, to the extent those obligations are applicable to such design

and construction contractors' services or work.

Section 7.02. Future Capital Improvements by City

A. City may expand, repair, alter, and improve the Airport as the City, in its sole judgment, may deem necessary to provide required facilities in the interest of the public and City, to include and not limited to all roadways, parking areas, terminal facilities, apron areas, landing areas and taxiways as it may reasonably see fit, free from any liability to Airline for loss of business or damages of any nature whatsoever to Airline occasioned during the making of such improvements, repairs, alterations and additions. City will confer and coordinate with Airline and the other airlines serving the Airport regarding planned Capital Improvements at the Airport, and, at least annually, provide the airlines with a detailed schedule of such planned Capital Improvements. However, City will retain the discretion to make capital investment decisions and issue bonds, as needed, to ensure that adequate facilities are provided on a timely basis to meet public and airline needs.

B. Notwithstanding Section 7.02(A) or any other provision of this Agreement to the contrary, City shall not undertake any expansion of the West Terminal/West Concourse until City has bought out Southwest's Investment in the Project pursuant to Section 7.04 of this Agreement.

Section 7.03. Future Construction by Airline (Other Than the Project)

A. **General / Approval of Plans.** Airline may construct or install at its own expense any improvements, facilities or equipment, and any additions thereto, in the Leased Premises; provided, however that the plans and specifications for any such proposed construction or installation, including any alteration or addition thereto, shall be submitted to and receive the written approval of the Director prior to the commencement of construction, alteration or installation. All such construction, alteration, or installation may be made only after obtaining requisite building or construction licenses and permits and, in addition to usual City inspection, shall be subject to inspection and approval by Director to see that said approved plans and specifications are being followed. All such construction, alteration, and installation shall be designed and carried out in accordance with the Houston Airport System's Tenant Improvement Program. Upon completion of construction, Airline shall provide City with record drawings of the improvements in AutoCAD electronic format and manuals in electronic format.

B. **Airline Right to Select Architects and Contractors.** No restrictions shall be placed on Airline as to architects, builders or contractors which it may employ in connection with any construction, installation, alteration, repair or maintenance by Airline in the Leased Premises.

C. **Title to Airline-Constructed Improvements.** Title to all Airline-constructed improvements in the Leased Premises, other than the equipment, trade fixtures and personal property that Airline is permitted to remove under the provisions of Section 4.05B hereof, shall vest in City immediately upon completion thereof.

D. Contractor Indemnity and Warranty. Airline will provide an indemnity from its construction contractors to City to the same extent as Airline obtains an indemnity from such contractor. Additionally, Airline will use its best efforts to cause all construction contractor warranties to inure to the benefit of City.

Section 7.04. City Buy-Out Rights

Southwest represents that all funding for the Project will be from internally generated funds; that no debt will be used to finance the Project. At any time after final completion of the Project, the City may buy-out Southwest's Investment in the Project for the then-unamortized cost of the Project calculated at the City's imputed Amortization rate over a twenty-five (25) year period as defined in this Agreement. As of the Execution Date, it is not the intention of the City to use Airport Improvement Funds for such buy-out. Should the City buy-out Southwest's investment, thereafter Southwest will be responsible for the payment of its proportionate share of HAS capital charges and will have the same obligation as any other airline using and operating in the Project with regard to any and all rental charges and fees, as provided in Article VI hereof.

Section 7.05. Donation Agreement

Pursuant to the "Agreement for Donation and Assignment" between Southwest and the City, effective as of the date of countersignature by the City's Controller (the "Donation Agreement"), and notwithstanding anything to the contrary in this Agreement, including any provisions in the Agreement or any other document regarding transfer of title, Southwest grants and conveys to City all right, title, and interest that Southwest may have in the Purchased Items (as defined in the Donation Agreement) pursuant to the Project Contracts (as defined in the Donation Agreement), such transfer of title to be effective before the Purchased Items are used by either Southwest or the Project contractor(s). Southwest has donated or will donate and convey all right, title, and interest in any Purchased Items acquired pursuant to the Project Contracts to City immediately upon acquisition of such Purchased Items.

Article VIII

OPERATION AND MAINTENANCE

Section 8.01. Obligations of City

A. Exclusive Use Space and Preferential Use Space. City shall furnish structural maintenance to all City-owned facilities. City shall provide maintenance and operation of all City-owned equipment and systems, including inside window (Preferential Use Space only) and outside window and exterior building structure cleaning, use reasonable efforts to furnish sufficient heat and air conditioning through its installed systems in those areas so equipped for such services and furnish electrical power for interior area lighting and provide electrical re-lamping in Preferential Use Space (as set forth in Exhibit I).

B. Joint Use Space. City shall furnish structural maintenance of City-owned facilities; perform maintenance and operation of City-owned equipment and systems; and

provide area lighting, janitorial, heating and air conditioning (as set forth in Exhibit I).

C. **Security Screening Space.** City shall furnish structural maintenance of City-owned facilities; provide maintenance and operation of City-owned equipment and systems; and provide area lighting, janitorial, heating and air conditioning (as set forth in Exhibit I).

D. **Preferential Use Terminal Complex Apron Area.** City shall provide structural maintenance for the Preferential Use Terminal Complex Apron Area, maintain apron area lighting, and shall perform all aircraft parking position painting based on aircraft parking plans provided by Airline.

E. **Passenger Loading Bridges and Baggage Handling Systems.** Unless otherwise agreed to in writing between the Director and the Airline, City shall provide maintenance (including routine and scheduled maintenance) and exterior equipment cleaning for all City-owned passenger loading bridges and City-owned baggage handling systems (as set forth in Exhibit I). Any transfer of this obligation from the City to the Airline will identify minimum standards of maintenance.

F. **Common Use Airport Facilities.** City shall operate, maintain and keep in good repair the areas and facilities provided by City for the common use of the airlines and the public in accordance with the practices of a reasonably prudent airport operator (as set forth in Exhibit I). City agrees to use its best efforts to keep the Airport free from obstructions and to do all things reasonably necessary for the safe, convenient and proper use of the Airport by those who are authorized to use the same. City shall maintain and operate the Airport in accordance with all applicable standards, rules and regulations of the Federal Aviation Administration.

G. **Public Areas of the Terminal Complex.** Except as may otherwise be provided herein, City will operate, maintain and keep in neat, clean, sanitary, sightly and operable condition and repair the public areas of the Terminal Complex (except for those areas therein leased to others for their Exclusive Use or Preferential Use) and all additions, improvements and facilities now or hereafter owned by City, at or in connection with the Terminal Complex and for common use by all airlines and the public, excepting any improvements or facilities constructed or installed by Airline, either individually or jointly with others and those that Airline has agreed under the provisions hereof to operate or maintain as aforesaid (as set forth in Exhibit I). Except as otherwise provided herein, City will keep the roof, structure and utility systems of the Terminal Complex in good repair. City will keep the public areas in and around the Terminal Complex adequately supplied, equipped and furnished to accommodate the public using same and will operate and maintain directional signs in said public areas, including by way of example, but not by way of limitation, signs indicating the location in the Terminal Complex of public facilities provided by City on the Airport. City will use reasonable efforts to provide (1) sufficient heat and air conditioning to those areas on the Airport equipped for such service; (2) illumination and drinking water in the public areas in the Terminal Complex; (3) adequate lighting for the public vehicular parking facilities; and (4) such janitorial and cleaning services as necessary to keep the public areas and public use restrooms of the Terminal Complex and areas adjacent thereto in a neat, clean, sanitary, sightly and operable condition at all times.

Section 8.02. Obligations of Airline

A. Exclusive Use Space and Preferential Use Space. Airline shall provide all maintenance, as set forth in Exhibit I, in the Exclusive Use Space and Preferential Use Space not otherwise provided by City under Section 8.01 hereof. Airline shall furnish all janitorial services, all maintenance and operation of Airline-owned improvements and systems in the Exclusive Use Space and Preferential Use Space. Airline shall provide electrical re-lamping, all decorating and redecorating when required and maintenance for plumbing lines in the Exclusive Use Space. Airline shall maintain the Exclusive Use Space and Preferential Use Space in a neat, clean, sanitary, sightly and operable condition.

B. Joint Use Space. Airline shall furnish all maintenance and operation of Airline-installed improvements and systems in the Joint Use Space (as set forth in Exhibit I) not otherwise provided by City under Section 8.01 hereof. Airline will conduct its operation in a neat, clean, sanitary, and sightly way.

C. Security Screening Space. Airline shall furnish all maintenance and operation of Airline-installed improvements, if any, and systems in the Security Screening Space (as set forth in Exhibit I) not otherwise provided by City under Section 8.01 hereof. Airline will conduct its operation in a neat, clean, sanitary, and sightly way.

D. Preferential Use Terminal Complex Apron Area. Airline shall perform or cause to be performed such cleaning of the Preferential Use Terminal Apron Area leased to Airline as shall be necessary to keep said area in a clean, neat and orderly condition and free of foreign objects, and shall periodically on an as-needed basis remove grease, oil, and fuel spills with ramp scrubbing equipment and repair any foreign object damage.

E. Passenger Loading Bridges. Airline shall furnish all janitorial services in the City-owned passenger loading bridges. Airline shall not modify or attach personal property or signage to City-owned passenger loading bridges without the advance written approval of the Director (which approval may be withheld at Director's sole discretion). Airline shall maintain all City-owned passenger loading bridges in a neat, clean, sanitary, and sightly condition and provide janitorial services.

F. Airline-Constructed Improvements. Airline shall cause all improvements and facilities, and additions thereto, constructed or installed by Airline and not otherwise conveyed to the City, either alone or in conjunction with other airline tenants, and those constructed or installed by City in Airline's Exclusive Use Space and Preferential Use Space, and all vehicles and equipment operated by Airline on the Airport to be kept and maintained in a safe condition and in good repair (except those repairs and maintenance undertaken by City in Section 8.01 hereof) in accordance with uniform standards applicable to all Airport tenants as established from time to time by the Director. Airline shall keep the Exclusive Use Space and Preferential Use Space and improvements thereon in a sanitary and neat condition and, during construction, shall cause compliance with all health, safety and other laws and requirements applicable thereto; provided, however, that notwithstanding anything herein to the contrary, Airline shall not be obligated to make any capital repairs or structural alterations to so comply, unless necessitated as

a result of Airline's construction activities.

G. Performance by City Upon Failure of Airline to Maintain. In the event Airline fails within thirty days after written notice from City to perform any obligation required under this Section 8.02 to be performed by Airline, City may enter the Leased Premises involved, without such entrance causing or constituting a termination of this Agreement or an interference with the possession of said Leased Premises by Airline, and do all things reasonably necessary to perform such obligation. Director may charge Airline the reasonable cost and expense of performing such obligation and Airline agrees to pay to City upon demand such charge in addition to any other amounts payable by Airline hereunder; provided, however, that if Airline's failure to perform any such obligation endangers the safety of the public, the employees or property of City, or other tenants of the Airport and Director so states in its written notice to Airline, City may perform such obligation of Airline at any time after the giving of such notice and charge to Airline the reasonable cost and expense of such performance which Airline shall pay as aforesaid.

Article IX

INDEMNIFICATION

Section 9.01. RELEASE AND INDEMNIFICATION OF CITY.

A. AIRLINE, FOR ITSELF, ITS SUCCESSORS AND ASSIGNS HEREBY RELEASES AND DISCHARGES CITY, ITS PREDECESSORS, SUCCESSORS, ASSIGNS, LEGAL REPRESENTATIVES AND ITS AGENTS, EMPLOYEES AND OFFICERS (COLLECTIVELY IN THIS SECTION "CITY") FROM ANY LIABILITY OF CITY FOR (i) ANY DAMAGE TO PROPERTY OF AIRLINE OR (ii) FOR CONSEQUENTIAL DAMAGES SUFFERED BY AIRLINE, WHERE ANY SUCH DAMAGE IS SUSTAINED IN CONNECTION WITH OR ARISING OUT OF THE PERFORMANCE OF THIS AGREEMENT.

B. WITH NO INTENT TO AFFECT AIRLINE'S ENVIRONMENTAL INDEMNIFICATION SET FORTH IN SECTION 14.02(D), AIRLINE EXPRESSLY AGREES TO PROTECT, DEFEND, INDEMNIFY AND HOLD CITY COMPLETELY HARMLESS FROM AND AGAINST (BUT SUBJECT TO SECTIONS D AND E HEREOF): (i) ANY AND ALL LIABILITIES, LAWSUITS, CAUSES OF ACTION, LOSSES, CLAIMS, JUDGMENTS, DAMAGES, FINES OR DEMANDS ARISING BY REASON OF OR IN CONNECTION WITH THE ACTUAL OR ALLEGED ERRORS, OMISSIONS, OR NEGLIGENT ACTS OF AIRLINE OR OF CITY IN CONNECTION WITH OR ARISING OUT OF THE PERFORMANCE OF THIS AGREEMENT, INCLUDING, BUT NOT LIMITED TO, BODILY INJURY, ILLNESS, PHYSICAL OR MENTAL IMPAIRMENT, DEATH OF ANY PERSON, OR THE DAMAGE TO OR DESTRUCTION OF ANY REAL OR PERSONAL PROPERTY; AND (ii) ALL REASONABLE, OUT-OF-POCKET COSTS INCURRED TO ESTABLISH CITY'S RIGHT TO INDEMNIFICATION HEREUNDER; AND (iii) ALL COSTS FOR THE INVESTIGATION AND DEFENSE OF ANY AND ALL LIABILITIES, LAWSUITS, CAUSES OF ACTION, LOSSES, CLAIMS, JUDGMENTS, DAMAGES, FINES OR DEMANDS INCLUDING, BUT NOT LIMITED TO, REASONABLE ATTORNEY FEES, COURT COSTS, DISCOVERY COSTS AND EXPERT FEES. SUBJECT TO SUBSECTIONS D AND E HEREOF, AIRLINE'S AGREEMENT TO PROTECT, DEFEND, INDEMNIFY AND HOLD HARMLESS CITY EXPRESSLY EXTENDS TO THE ACTUAL OR ALLEGED JOINT OR CONCURRENT NEGLIGENCE OF CITY AND AIRLINE.

C. UPON THE FILING BY ANYONE OF ANY TYPE OF CLAIM, CAUSE OF ACTION OR LAWSUIT AGAINST CITY FOR ANY TYPE OF DAMAGES ARISING OUT OF INCIDENTS FOR WHICH CITY IS TO BE INDEMNIFIED BY AIRLINE PURSUANT TO THIS SECTION 9.01, CITY SHALL, AS SOON AS PRACTICAL, AND, IN ANY EVENT, WITHIN 10 DAYS OF CITY BECOMING AWARE THEREOF, NOTIFY AIRLINE OF SUCH CLAIM, CAUSE OF ACTION OR LAWSUIT. IN THE EVENT THAT AIRLINE DOES NOT SETTLE OR COMPROMISE SUCH CLAIM, CAUSE OF ACTION, OR LAWSUIT AT ITS OWN COST, TO THE EXTENT AIRLINE IS REQUIRED TO INDEMNIFY CITY PURSUANT TO THIS SECTION 9.01, THEN AIRLINE SHALL UNDERTAKE THE LEGAL DEFENSE OF SUCH CLAIM, CAUSE OF ACTION, OR LAWSUIT AT ITS OWN COST (SUBJECT TO SECTION 9.01E) THROUGH COUNSEL OF RECOGNIZED CAPACITY OR OTHERWISE NOT REASONABLY DISAPPROVED BY CITY BOTH ON BEHALF OF ITSELF AND ON BEHALF OF CITY (ASSUMING NO SUBSTANTIAL CONFLICTS OF INTEREST EXIST) UNTIL FINAL DISPOSITION, INCLUDING ALL APPEALS. CITY MAY, AT ITS SOLE RISK, COST AND EXPENSE, PARTICIPATE IN THE LEGAL DEFENSE OF ANY SUCH CLAIM, CAUSE OF ACTION OR LAWSUIT BY AIRLINE TO DEFEND AGAINST SUCH CLAIM, CAUSE OF ACTION OR LAWSUIT WITHOUT SUCH PARTICIPATION AFFECTING AIRLINE'S OBLIGATION HEREIN. ANY FINAL JUDGMENT RENDERED AGAINST CITY FOR ANY CAUSE FOR WHICH CITY IS TO BE INDEMNIFIED AGAINST PURSUANT TO THIS SECTION 9.01 SHALL BE CONCLUSIVE AGAINST AIRLINE AS TO LIABILITY AND AMOUNT UPON THE EXPIRATION OF THE TIME FOR ALL APPEALS.

D. THE PROVISIONS OF SECTION 9.01B AND C HEREOF SHALL NOT APPLY TO ANY CLAIM OR DEMAND (i) TO THE EXTENT ARISING FROM THE NEGLIGENCE OF CITY WHEN CITY IS MORE THAN 50% LIABLE, UNDER THIS AGREEMENT, OR FROM THE BREACH OF CITY'S EXPRESS OBLIGATIONS HEREUNDER; OR (ii) IF SUCH CLAIM OR DEMAND RELATES TO ANY ACT OR OMISSION OCCURRING OUTSIDE THE PREMISES LEASED EXCLUSIVELY, COMMONLY, OR PREFERENTIALLY TO AIRLINE UNDER THIS AGREEMENT, UNLESS AIRLINE IS MORE LIABLE FOR (i.e., IS MORE AT FAULT FOR) SUCH CLAIM OR DEMAND THAN EACH OTHER PARTY TO SUCH CLAIM OR DEMAND; (iii) TO THE EXTENT THE CLAIM OR DEMAND IS COVERED UNDER THE INSURANCE AVAILABLE TO CITY AS AN ADDITIONAL INSURED UNDER ARTICLE X HEREIN; (iv) TO THE EXTENT THE CLAIM OR DEMAND IS COVERED UNDER A THIRD PARTY INSURANCE POLICY OWNED OR CARRIED BY CITY AND/OR ANY OF ITS AGENCIES OR INSTRUMENTALITIES; OR (v) UNLESS THE CLAIM OR DEMAND IS COVERED BY, OR CITY HAS ASSERTED A DEFENSE BASED ON GOVERNMENTAL OR SOVEREIGN IMMUNITY. CITY SHALL BE RESPONSIBLE FOR ASSERTING ANY DEFENSE OF GOVERNMENTAL IMMUNITY AS IT MAY EXIST FROM TIME TO TIME, AND IT SHALL DO SO UPON THE TIMELY WRITTEN REQUEST OF AIRLINE OR ITS INSURANCE CARRIER(S); PROVIDED, THAT, IF (a) A CLAIM OR DEMAND IS MADE AGAINST AIRLINE BY A THIRD PARTY FOR WHICH AIRLINE HAS INSURANCE COVERAGE PURSUANT TO SECTIONS 10.02 AND 10.03 HEREOF, AND (b) THERE IS A DEDUCTIBLE CARRIED BY AIRLINE APPLICABLE TO SUCH CLAIM OR DEMAND (OR AIRLINE, THROUGH SELF-INSURANCE OR OTHER SELF-FUNDED INSURANCE PROGRAM, BEARS THE FINANCIAL RISK OF ANY PORTION OF SUCH CLAIM OR DEMAND AS TO THE DEDUCTIBLE ONLY), THEN THE PROVISIONS OF SECTION 9.01B AND C SHALL APPLY TO SUCH PORTION OF THE CLAIM OR DEMAND THAT IS SUBJECT TO SUCH DEDUCTIBLE OR SELF-INSURANCE OF THE DEDUCTIBLE OR OTHER SELF-FUNDED INSURANCE PROGRAM AS TO THE DEDUCTIBLE (AND TO ANY OTHER PORTION OF THE CLAIM OR DEMAND AS TO CITY THAT IS NOT SATISFIED WITH INSURANCE PROCEEDS). FOR PURPOSES OF THIS SECTION, AIRLINE COVENANTS AND AGREES THAT AS TO EACH CLAIM OR DEMAND THAT MAY

BE SUBJECT TO THE PROVISIONS HEREOF, THE DEDUCTIBLE AMOUNT SHALL NEVER BE DEEMED TO BE GREATER THAN \$1,000,000.

E. NOTWITHSTANDING ANYTHING IN THIS SECTION TO THE CONTRARY, THE LIABILITY OF THE AIRLINE FOR CITY'S NEGLIGENCE, INCLUSIVE OF ALL DEFENSE COSTS EXPENDED SOLELY FOR CITY'S DEFENSE, UNDER SECTION 9.01B AND C SHALL NOT EXCEED \$1,000,000 PER OCCURRENCE.

Article X

INSURANCE

Section 10.01. General

With no intent to limit or increase Airline's liability or the indemnification provisions herein, Airline shall provide and maintain certain insurance (except as to Environmental/Impairment Pollution coverage as set forth below) in full force and effect at all times during the term of this Agreement and all extensions thereto, as set forth Section 10.02 below. If any of the insurance is written as "claims made" coverage, then Airline agrees to keep such "claims made" insurance in full force and effect by purchasing policy period extensions for at least five years after the expiration or termination of this Agreement.

Section 10.02. Risks and Minimum Limits of Coverage

Workers Compensation:	Statutory
Employer's Liability:	Bodily injury by accident \$1,000,000 (each accident) Bodily injury by Disease \$1,000,000 (policy limit) Bodily injury by Disease \$1,000,000 (each employee)
Commercial General Liability: (Including broad form coverage, contractual liability, bodily and personal injury, and products and completed operations)	Combined single limit of: \$10,000,000 per occurrence / aggregate Products and Completed operations: \$10,000,000 aggregate
Aircraft Liability: (covering owned, hired, and non-owned aircraft including passenger liability)	\$200,000,000 combined single limit
Environmental Impairment / Pollution: (including coverage for receiving, dispensing, transporting, removal and handling of aviation fuels or any other pollutants, as well as any other operations involving pollutants)	\$1,000,000 combined single limit per occurrence Coverage required contingent upon Airline's election, in its sole discretion, to purchase this coverage
All Risk: (Covering Airline improvements, trade fixtures and equipment, including fire, lighting, vandalism, and extended coverage perils)	Replacement value

Automobile Liability Insurance:
(For automobiles used by Airline in the course of
its performance under this Agreement, including
Airline's non-owned and hired autos)

\$5,000,000 combined single limit per occurrence

(Aggregate limits are per 12-month period unless otherwise indicated.)

Section 10.03. Other Provisions

A. Form of Policies. The insurance may be in one or more policies of insurance. Nothing the Director does or fails to do shall relieve Airline from its duties to provide the required coverage hereunder, and the Director's actions or inactions shall not be construed as waiving City's rights hereunder.

B. Issuers of Policies. The issuer of any policy shall have a Certificate of Authority to transact insurance business in the State of Texas or have a Best's rating of at least B+ and a Best's Financial Size Category of Class VI or better, according to the most current edition of Best's Key Rating Guide, Property-Casualty United States.

C. Insured Parties. Each policy, except those for Workers Compensation, Professional Liability and Employer's Liability, shall name City (and its officers, agents, and employees) as Additional Insured as its interest may appear on the issued certificate of insurance and all renewal certificates (such certificates to accurately reflect City's Additional Insured status on Airline's original policies and any renewals or replacements thereof during the term of this Agreement). City shall be named Loss Payee on All Risk and Builders Risk coverages (except to the extent coverage relates to Airline's equipment and personal property).

D. Deductibles. Without increasing, decreasing or expanding its duties under Section 10.01. hereof, Airline shall assume and bear any claims or losses to the extent of any deductible amounts and waives any claim it may ever have for the same against City, its officers, agents, or employees; provided, however, that nothing herein stated shall diminish Airline's rights or increase Airline's obligations in respect to its undertakings or hold harmless, defense and indemnification set forth in Article IX hereof.

E. Cancellation. Airline shall notify the Director in writing 30 days prior to any cancellation or material change to Airline's insurance coverage. Within the 30 day period, Airline shall provide other suitable policies in lieu of those about to be canceled or nonrenewed so as to maintain in effect the required coverage. If Southwest does not comply with this requirement, the Director, at his discretion, may purchase the required insurance with City funds and invoice Airline for such costs.

F. Aggregates. Airline shall give written notice to the Director within twenty (20) days of the date upon which total claims by any party against Airline reduce the aggregate amount of coverage below the amounts required by this Agreement. In the alternative, the policy

may contain an endorsement establishing a policy aggregate for the particular project or location subject to this Agreement.

G. Subrogation. Each policy shall contain an endorsement to the effect that the issuer waives any claim or right in the nature of subrogation to recover against City, its officers, agents, or employees.

H. Endorsement of Primary Insurance. Each policy hereunder except Workers Compensation shall be primary insurance to any other insurance available to the Additional Insured and Loss Payee with respect to claims arising hereunder.

I. Liability for Premium. Airline shall be solely responsible for payment of all insurance premiums required hereunder, and City shall not be obligated to pay any premiums.

J. Contractors and Subcontractors.

1. With the exception set forth in Section 10.03.J.2 below, Airline shall contractually require all contractors and subcontractors involved in the provision of any labor, materials or services on, at or within the Leased Premises, to carry insurance naming City as an additional insured and meeting all of the requirements in Sections 10.01, 10.02, and 10.03 hereof, except coverage amount. The coverage amount shall be commensurate with the amount of the particular contract and shall be subject to the approval of the Director. Airline shall provide in its contracts with its contractors and subcontractors that they submit to the Director copies of insurance certificates for the coverages required herein.

2. Airline shall be under no obligation to require its contractors or subcontractors to provide aircraft liability coverage.

3. In connection with the design and construction of any Airline improvements to the Leased Premises, Airline shall require:

a. The architect/engineer to secure Professional Liability coverage with a minimum of \$1,000,000 per occurrence/aggregate if the project construction cost is estimated to exceed \$10,000,000;

b. The construction contractor and/or its subcontractors to secure Builder's Risk coverage equal to the replacement value of the improvements; and

c. The construction contractor and/or its subcontractors to secure Asbestos Abatement liability coverage if the project includes work with asbestos. Such Asbestos Abatement liability insurance shall include coverage for liability arising from the encapsulation, removal, handling, storage, transportation, and disposal of asbestos-containing materials and shall be in a minimum amount of \$1,000,000 combined single limit per occurrence.

K. Proof of Insurance. Within ten (10) days of the Effective Date of this Agreement and at any time during the term of this Agreement, Airline shall furnish the Director with certificates of insurance, along with an affidavit from Airline confirming that the certificates accurately reflect the insurance coverage that will be available during the term. If requested in writing by the Director, Airline shall furnish City with copies of Airline's insurance policies.

Notwithstanding the proof of insurance requirements set forth above, it is the intention of the parties hereto that Airline, continuously and without interruption, maintain in force the required insurance coverages to be carried by Airline set forth above. Airline agrees that City shall never be argued to have waived or be estopped to assert its right to terminate this Agreement hereunder because of any acts or omissions by City regarding its review of insurance documents provided by Airline, its agents, employees, or assigns.

L. City Right to Review and Adjust Coverage Limits. City reserves the right at reasonable intervals during the Term of this Agreement to cause the insurance requirements of this Article X to be reviewed by an independent insurance consultant experienced in insurance for public airports in Texas, taking into consideration changes in statutory law, court decisions, or the claims history of the airline industry as well as that of Airline, and, based on the written recommendations of such consultant, and in consultation with Airline, to reasonably adjust the insurance coverages and limits required herein but not more often than every twelve (12) months.

Article XI

DAMAGE OR DESTRUCTION OF LEASED PREMISES

Section 11.01. Leased Premises Inhabitable

If any of the Leased Premises shall be partially damaged by fire or other casualty, but such Leased Premises remain inhabitable, same will be repaired with due diligence by the City to the condition existing just prior to such casualty, but City's responsibility in this regard shall be limited to the extent of the proceeds of insurance received with respect to such premises and to the extent funds are appropriated for such repair by the City's governing body.

Section 11.02. Leased Premises Uninhabitable

If any of the Leased Premises shall be completely destroyed or partially damaged by fire or other casualty rendering all or a substantial portion of the Leased Premises uninhabitable and it is reasonably estimated by the Director that it will take more than 180 days to repair, Director shall notify Airline in writing within ninety (90) days of such casualty whether the damaged or destroyed Leased Premises will be repaired. If any or all of the Leased Premises is to be repaired, it shall be repaired with due diligence by the City, and the rental allocable to the damaged or destroyed Leased Premises shall be abated for the period from the occurrence of the damage to the substantial completion of the repairs. If the repair period is estimated to exceed 180 days, City shall make good faith efforts to provide Airline with temporary substitute space,

if available, during such period of repair, at a rental rate for comparable space based on the rates and charges principles set forth in this Agreement.

Section 11.03. Automatic Termination

If the City shall fail to notify Airline of its decision as set forth in Section 11.02 above (or gives written notice of its intent not to repair), City shall be deemed to have elected to terminate this Agreement only as to the Leased Premises damaged or destroyed, and the Agreement shall automatically terminate as to such Leased Premises as of the date of the damage or destruction, with no further liability therefor by either City or Airline except those liabilities that accrued, including rent, prior to such damage or destruction.

Section 11.04. Airline Improvements

Airline shall reconstruct all its improvements in the damaged or destroyed Leased Premises necessary for the conduct of Airline's business operations in the manner existing just prior to the casualty, consistent with the City's obligations set forth in Sections 11.01, 11.02 and 11.03.

Section 11.05. Insurance

The Terminal Complex, exclusive of Airline's property, will be insured by City under a policy of fire and extended coverage insurance to the extent of not less than eighty percent (80%) of the insurable value of such property if such percentage of coverage is available. Insurance monies and funds received on account of the damage to or destruction of such property will be applied by the City to the repair, construction, or replacement of such damaged or destroyed property. Premiums paid by the City for insurance provided in compliance herewith shall be included by the City as a part of Airport operation and maintenance expenses.

Article XII

TERMINATION

Section 12.01. Termination by City

City, in addition to any other right of cancellation herein given to it or any other rights to which it may be entitled by law or equity or otherwise, may cancel this Agreement by giving Airline sixty (60) days advance written notice, to be served as hereinafter provided, upon or after the happening of any one or more of the following events, except default in timely payment of any money due City including PFCs, if applicable, for which fifteen (15) days written notice shall be given and except default in providing copies of insurance policies or maintaining required insurance coverages described in Section 10.03K, for which ten (10) days written notice shall be given:

A. The filing by Airline of a voluntary petition in bankruptcy or any assignment for benefit of creditors of all or any part of Airline's assets; or

B. Any institution of proceedings in bankruptcy against Airline and the adjudication of Airline as a bankrupt pursuant to such proceedings; or

C. The taking of jurisdiction by a court of competent jurisdiction of Airline or its assets pursuant to proceedings brought under the provisions of any Federal reorganization act; or

D. The appointment of a receiver or trustee of Airline's assets by a court of competent jurisdiction or by a voluntary agreement with Airline's creditors; or

E. The abandonment by Airline of its conduct of its air transportation business at the Airport and in this connection, suspension of operations for a period of ninety (90) days will be considered abandonment in the absence of an explanation satisfactory to and accepted in writing by the Director; or

F. If Airline shall be prevented for a period of ninety (90) days, after exhausting or abandoning all appeals, by any action of any governmental authority, board, agency or officer having jurisdiction thereof from conducting its air transportation business at the Airport, or it is so prevented from conducting its air transportation business, either by (a) reason of the United States or any agency thereof, acting directly or indirectly, taking possession of, in whole or substantial part, the Leased Premises or premises required for the actual operation of Airline's aircraft to and from the Airport; or (b) if all or a substantial part of the Leased Premises shall be acquired through the process of eminent domain; or

G. The default by Airline in the performance of any covenant, obligation or condition herein required to be performed by Airline and the failure of Airline to remedy such default for a period of thirty (30) days after receipt from City of written notice to remedy the same, except default in timely payment of any money due City under this Agreement, for which a total of fifteen (15) days written notice will be given and except default in providing copies of insurance policies or maintaining required insurance coverages described in Section 10.03K, for which ten (10) days written notice shall be given; provided, however, that no notice of cancellation as above provided shall be of any force or effect if Airline shall have remedied the default prior to receipt of City's notice of cancellation or within the applicable notice period Airline commences the process of remedying the default and diligently prosecutes the same to completion. Failure by City to take any authorized action upon default by Airline of any of the terms, covenants or conditions required to be performed, kept and observed by Airline shall not be construed to be or act as a waiver of said default or of any subsequent default of any of the terms, covenants and conditions herein contained to be performed, kept and observed by Airline. The acceptance of rentals by City from Airline for any period or periods after a default by Airline of any of the terms, covenants and conditions herein required to be performed, kept and observed by Airline shall not be deemed a waiver or estoppel of any right on the part of City to cancel this Agreement for failure by Airline to so perform, keep or observe any of said terms, covenants or conditions.

Section 12.02. Termination by Airline

In addition to any other right of cancellation herein given to Airline or any other rights to which it may be entitled by law, equity, or otherwise, as long as Airline is not in default in payment to City of any amounts due City under this Agreement or otherwise, Airline may cancel this Agreement and thereby terminate all of its rights and un-accrued obligations hereunder by giving City sixty (60) days advance written notice, to be served as hereinafter provided, upon or after the happening of any of the following events:

A. Termination, suspension, revocation or cancellation, by any federal agency with competent jurisdiction of Airline's right or authority to operate as a scheduled air carrier serving the Airport;

B. Issuance by a court of competent jurisdiction of an injunction which in any way substantially prevents or restrains the use of the Airport or any part thereof necessary for Airline's scheduled flight operations and which injunction remains in force for a period of at least thirty (30) days after City has exhausted or abandoned all appeals, if such injunction is not necessitated by or issued as the result of an act or omission of Airline;

C. If, at any time during the term of this Agreement, because of City's failure to provide within a reasonable time safe aircraft operating facilities, the Federal Aviation Administration or its successor fails or refuses to certify the Airport as adequate to accommodate aircraft which Airline is licensed to operate and is operating into and from all other airports of like size and character and with similar facilities and which aircraft are in general use on Airline's scheduled transportation route system; and which Airline may reasonably desire to operate into or from the Airport; provided such refusal or failure is not due to any fault of Airline;

D. The inability of Airline for a continuing period in excess of ninety (90) days to use the Airport or to exercise any rights or privileges granted to Airline hereunder and necessary to its scheduled flight operations because of any law or ordinance by any governmental authority having jurisdiction over the operations of the Airport or Airline, or because of any order, rule, regulation or other action or any non-action of the Federal Aviation Administration, its successor or any other authorized governmental agency; prohibiting such use, or because of earthquake or other casualty (excepting fire), acts of God or the public enemy, and beyond the control of Airline.

E. The default by City in the performance of any covenant or condition within the control of City and herein required to be performed by City and failure of City to use its best efforts to remedy such default for a period of thirty (30) days after receipt from Airline of written notice to remedy the same; provided, however, that no notice of cancellation as above provided shall be of any force or effect if City shall have remedied the default prior to receipt of Airline's notice of cancellation or within the aforesaid thirty (30) day period or during said period commences the process of remedying the same and diligently prosecutes the same to completion.

F. The assumption by the United States Government or any authorized agency thereof of the operation, control or use of the Airport and facilities, or any substantial part thereof, in such a manner as substantially to restrict Airline, for a continuous period of at least ninety (90) days, from operating its air transportation business.

G. Termination, suspension or discontinuation of Airline's services to the Airport by a governmental agency authorized to do so because of a war or national emergency declared by the government. Airline's performance of all or any part of this Agreement for or during any period or periods after a default of the terms, covenants and conditions herein contained to be performed, kept and observed by City shall not be deemed a waiver of any right on the part of Airline to cancel this Agreement for failure by City so to perform, keep or otherwise observe any if the terms, covenants or conditions hereof to be performed, kept and observed by City, or be construed to be or act as a waiver by Airline of said default or of any subsequent default of any of said terms, covenants and conditions herein contained and to be performed, kept and observed by City.

H. In any event where the usage of the Airport by Airline is materially affected as provided in this Section 12.02, and whether or not Airline is entitled to cancel this Agreement as herein provided, while such event is continuing, an equitable adjustment to the rentals herein required to be paid by Airline shall be made by City, as are determined to be reasonable by City in its sole judgment.

Article XIII

ASSIGNMENT AND SUBLETTING

Section 13.01. Assignment and Subletting

A. Airline shall not at any time assign this Agreement in whole or in part without the prior written consent of the Director; provided, however, that the foregoing shall not prevent the assignment of this Agreement to any corporation with which Airline may merge or consolidate or which may succeed to the business of Airline and provided further that, in connection with any such requested assignment, Airline may request City to release the assigned portion of said Leased Premises from this Agreement and to relieve Airline of rental obligation therefor. In the event City fails or refuses to approve such request and relief, Airline may then assign all or a portion of the Leased Premises to another air transportation company or companies that have executed an airport use and lease agreement with City.

B. Airline may sublet all or any part of the Leased Premises only after obtaining the prior written consent of the Director, but if an event of default shall occur and be continuing under this Agreement, City may collect rent from such sub-lessee or occupant and apply the amount collected to the extent possible to satisfy the obligations of Airline hereunder, but no such collection shall be deemed a waiver by the City of the covenants contained herein or the acceptance by the City of such sub-lessee or occupant as a successor to Airline or a release of Airline by City from its obligations hereunder.

C. All of the terms, provisions, covenants, stipulations, conditions and consideration in this Agreement shall extend to and bind the legal representatives, successors, sub-lessees, and assigns of the respective parties hereto.

Article XIV

MISCELLANEOUS PROVISIONS

Section 14.01. Rules and Regulations

Subject to Section 14.02E, from time to time the Director may adopt and enforce rules and regulations with respect to the occupancy and use of the Airport, its services and facilities, by persons, vehicles, aircraft and equipment that in his opinion will reasonably insure the safe, efficient, and economically practicable operation thereof and provide for the safety and convenience of those using the Airport, and to protect the Airport and its facilities and the public from damage or injury resulting from operations on, into and from the Airport. Airline agrees to observe and obey any and all rules and regulations as are currently in place and as may be reasonably established from time to time, and to require its officers, agents, employees, contractors, and suppliers, to observe and obey the same. City reserves the right to deny access to the Airport or its facilities to any person, firm or corporation that fails or refuses to obey and comply with such rules and regulations. Such rules and regulations of the Airport will not be inconsistent with the terms of this Agreement nor with valid rules, regulations, orders and procedures of the Federal Aviation Administration or any other government agency duly authorized to make or enforce rules and regulations for the operation of the Airport and the operation of aircraft using the Airport. Airline, upon written request to the Director, shall be furnished (at the notice address provided herein and to Airline's on-Airport manager) a current copy of any such Airport rules or regulations and any amendments thereto.

Section 14.02. Compliance with Law

A. **General.** Airline shall not use the Airport or any part thereof, or knowingly permit the same to be used by any of its employees, officers, agents, subtenants, contractors, invitees, or licensees for any illegal purposes and shall, at all times during the Term of this Agreement, comply with all applicable regulations, ordinances, and laws of the City, the State of Texas, or the Federal Government, and of any governmental bodies which may have jurisdiction over the Airport. Nothing in this Section 14.02 shall modify the provisions of Section 14.01 or limit Airline's rights thereunder.

B. **Compliance with Statutes, Ordinances and Regulations.** At all times during the term of this Agreement, Airline shall, in connection with its activities and operations at the Airport:

1. Comply with and conform to all applicable present and future statutes and ordinances, and regulations promulgated thereunder, of all Federal, State, and other government bodies of competent jurisdiction that apply to or affect, either directly or indirectly, Airline or

Airline's operations and activities under this Agreement. Airline shall comply with all applicable provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. Section 12101), as may be amended from time to time, and federal regulations promulgated thereunder that may be made applicable as a result of construction activities conducted by Airline.

2. Subject to prior written approval of the Director, make, at its own expense, all non-structural improvements, repairs, and alterations to its Exclusive Use Space, equipment, and personal property that are required to comply with or conform to any of such statutes, ordinances, or regulations (subject to Section 14.01).

3. As respects the City, be and remain an independent contractor with respect to all installations, construction, and services performed by or on behalf of Airline hereunder.

C. Compliance with Environmental Laws.

1. Airline shall comply with all federal, state, local statutes, ordinances, regulations, rules, policies, codes or guidelines now or hereafter in effect, as same may be amended from time to time, which govern Hazardous Materials or relate to the protection of human health, safety or the environment, applicability of which are invoked by the conduct of Airline's business operations at the Airport and shall include but not be limited to: the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. Section 136 et seq.; the Safe Drinking Water Act, 42 U.S.C. Section 300(f) et seq.; the Oil Pollution Control Act of 1990, 33 U.S.C. Section 270 et seq.; the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C., Section 9601 et seq.; and as amended by the Superfund Amendments and Reauthorization Act of 1986, Pub. Law No. 99-499, 100 Stat. 1613; the Toxic Substances Control Act, 15 U.S.C., Section 2601 et seq.; the Clean Air Act, 42 U.S.C. 7401 et seq.; the Clean Water Act, 33 U.S.C., Section 1251, et seq.; the Hazardous Materials Transportation Act, 49 U.S.C., Section 1801 et. seq.; the Resource Conservation and Recovery Act, 42 U.S.C., Section 6901 et seq.; or their State counterparts; and all substances defined as hazardous waste or as hazardous substances under the laws of Texas and/or the United States or in regulations promulgated pursuant to such laws (collectively, "Environmental Laws").

2. Any fines, penalties, or remediation costs that may be levied against the City by the Environmental Protection Agency or the Texas Natural Resource Conservation Commission or any other governmental agency for Airline's failure to comply with the Environmental Laws as required herein shall be reimbursed to the City by Airline within twenty-one (21) days of receipt of an invoice from City for such fines or penalties.

3. Airline shall prevent the presence, use, generation, release, omission, discharge, storage, disposal or transportation of any Hazardous Materials by Airline on, under, in, above, to or from the Airport or any other areas or facilities subject to this Agreement, other than in strict compliance with all Environmental Laws.

4. Airline acknowledges that the Airport is subject to the National Pollutant Discharge Elimination System program ("NPDES") and its regulations relating to stormwater discharges, 40 CFR Part 122, for operations that occur at the Airport. Airline further

acknowledges that it is familiar with these NPDES stormwater regulations, that it will conduct operations at the Airport in compliance with 40 CFR Part 122 or any applicable NPDES permit, as either may be amended from time to time.

5. City and Airline both acknowledge that close cooperation is necessary to ensure compliance with any NPDES stormwater discharge permit, as well as to ensure safety and to minimize costs. Airline acknowledges that it may be necessary to undertake to minimize the exposure of stormwater to materials generated, stored, handled or otherwise used by Airline as defined in the federal stormwater regulations, by implementing and maintaining "Best Management Practices" as defined in 40 CFR, Part 122.2 and as implemented in any applicable NPDES permit, as either may be amended from time to time.

6. Airline acknowledges that City's NPDES stormwater discharge permit and any subsequent amendments, extensions or renewals thereto, to the extent affecting Airline's operations at the Airport, is incorporated by reference into this Agreement. Airline agrees to be bound by all applicable portions of said permit. City shall promptly notify Airline of any changes to any portions of said permit applicable to, or that affect, Airline's operations.

7. City shall provide Airline with written notice of those NPDES stormwater discharge permit requirements (including any modifications thereto) that Airline shall be obligated to perform from time to time at the Airport, including, but not limited to: certification of non-stormwater discharges; collection of stormwater samples; preparation of stormwater pollution prevention or similar plans; implementation of "good housekeeping" measures or Best Management Practices; and maintenance of necessary records. Such written notice shall include applicable deadlines. Airline, within fifteen (15) days of receipt of such written notice, shall notify City in writing if it disputes any of the NPDES stormwater discharge permit requirements it is being directed to undertake. If Airline does not provide such timely notice, it is deemed to assent to undertake such requirements. If Airline provides City with written notice, as required above, that it disputes such NPDES stormwater discharge permit requirements, City and Airline agree to negotiate a prompt resolution of their differences. Airline warrants that it will not object to City notices required pursuant to this paragraph unless Airline has a good faith basis to do so.

8. City and Airline agree to provide each other upon request, with any non-privileged information collected and submitted to any governmental entity (ies) pursuant to applicable NPDES stormwater regulations.

9. Airline agrees to participate in any reasonable manner requested by the City in any City organized task force or other work group established to coordinate stormwater activities at the Airport.

10. Upon reasonable notice based on the circumstances and without materially disrupting Airline's operations (except in case of emergencies when notice shall not be required), City shall have the right at any time and from time to time to enter upon Airline's Leased Premises for purposes of inspection to ensure that Airline is complying with this Section 14.02.C. without such inspection constituting a trespass.

11. All such remedies of City with regard to environmental requirements as set forth herein shall be deemed cumulative in nature and shall survive termination of this Agreement.

D. INDEMNIFICATION. AIRLINE SHALL PROTECT, DEFEND, INDEMNIFY, AND HOLD HARMLESS CITY AND ITS OFFICERS, AGENTS, AND EMPLOYEES FROM AND AGAINST ANY LOSS, COST, CLAIM (INCLUDING CLAIMS FOR REMEDIATION COSTS OR IN KIND REMEDIATION), DEMAND, PENALTY, FINE, LIABILITY AND EXPENSE (INCLUDING BUT NOT LIMITED TO ATTORNEYS' AND CONSULTANTS' FEES, COURT COSTS AND LITIGATION EXPENSES) AND HEREAFTER REFERRED TO AS "LIABILITY" FROM WHOMEVER RECEIVED, WHETHER A PRIVATE PERSON OR GOVERNMENTAL ENTITY RELATED TO:

1. AIRLINE'S USE OR THE PRESENCE CAUSED BY AIRLINE OF HAZARDOUS MATERIALS OF WHATEVER KIND OR NATURE, KNOWN OR UNKNOWN, CONTINGENT OR OTHERWISE ON THE AIRPORT, WHICH LIABILITY MAY ARISE OUT OF ANY INVESTIGATION, MONITORING, CLEANUP, CONTAINMENT, REMOVAL, STORAGE OR RESTORATION WORK REQUIRED OR INCURRED HEREUNDER BY CITY OR ANY OTHER ENTITY OR PERSON IN A REASONABLE BELIEF THAT SUCH WORK IS REQUIRED BY ANY APPLICABLE ENVIRONMENTAL LAW;

2. ANY ACTUAL, THREATENED, OR ALLEGED CONTAMINATION BY HAZARDOUS MATERIALS ON THE AIRPORT PREMISES BY AIRLINE OR ITS AGENTS;

3. THE DISPOSAL, RELEASE OR THREATENED RELEASE OF HAZARDOUS MATERIALS BY AIRLINE OR ITS AGENTS AT THE AIRPORT THAT IS ON, FROM, OR AFFECTS SOIL, AIR, WATER, VEGETATION, BUILDINGS, PERSONAL PROPERTY, OR PERSONS;

4. ANY PERSONAL INJURY, DEATH OR PROPERTY DAMAGE (REAL OR PERSONAL) ARISING OUT OF OR RELATED TO HAZARDOUS MATERIALS USED (INCLUDING STORAGE OR DISPOSAL) BY AIRLINE AT THE AIRPORT; OR

5. ANY VIOLATION BY AIRLINE OF ENVIRONMENTAL LAWS; PROVIDED, HOWEVER, THAT THE FOREGOING INDEMNITY SHALL NOT BE APPLICABLE TO LOSSES, COSTS, EXPENSES, CLAIMS, DEMANDS, PENALTIES, FINES, SETTLEMENTS, LIABILITIES AND EXPENSES RESULTING FROM CONDITIONS EXISTING AS OF THE EFFECTIVE DATE OF THIS AGREEMENT AND WHICH SUCH CONDITIONS ARE NOT THE RESULT OF ANY OPERATIONS, ACTIVITIES, ACTIONS OR INACTIONS OF AIRLINE OR ITS AGENTS, OR WHICH ARE CAUSED SOLELY BY CITY OR ITS AGENTS.

E. Federal Preemption. Notwithstanding any provisions of the rules and regulations, any requirement in such rules or regulations shall not apply to Airline to the extent that such rules or regulations would otherwise be preempted by the Airline Deregulation Act (49 U.S.C. § 41713).

F. Airline shall not be responsible in any way for any Hazardous Materials that exist on the Airport, the presence of which was not caused by Airline. In the event that any such

presence of Hazardous Materials not caused by Airline results in Airline being substantially deprived of the use or benefit of any material portion of the Leased Premises, City agrees to use its best efforts to provide replacement space for Airline during the period of such deprivation or to abate the rent due hereunder in an equitable manner.

Section 14.03. Nondiscrimination

A. General. In the use and occupation of the Airport, Airline shall not unlawfully discriminate against any person or class of persons by reason of race, color, religion, sex, national origin or ancestry, age, or physical or mental handicap.

B. Civil/Human Rights Laws. In its operations at the Airport and in its use of the Airport, Airline shall not, on the grounds of race, color, religion, sex, national origin or ancestry, or age, discriminate or permit discrimination against any person or group of persons in any manner prohibited by Part 21 of the Federal Aviation Regulations, the Civil Rights Act of 1964, as amended, the Equal Pay Act of 1963, the Rehabilitation Act of 1973, and Section 15-17 of the City's Code of Ordinances. Without limiting the generality of the foregoing, Airline agrees to not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin or ancestry, or age. Airline agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, national origin or ancestry, age, or physical or mental handicap. Such action shall include, but not be limited to: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; selection for training; and disciplinary actions and grievances. Airline agrees to post, in conspicuous places available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

C. USDOT Requirements. Airline, for itself, its successors in interest, and assigns, as a part of the consideration of this Agreement, does hereby covenant and agree that, in the event improvements are constructed, maintained, or otherwise operated on the Airport for a purpose for which a United States Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, Airline shall maintain and operate such improvements and services in compliance with all other requirements imposed pursuant to 49 CFR, Part 21 (Non-discrimination in Federally Assisted Programs of the Department of Transportation), as said regulations may be amended.

Airline, for itself, its heirs, personal representatives, successors in interest, and assigns, as a part of the consideration of this Agreement, does hereby covenant and agree that: (1) no person on the grounds of race, color, religion, sex, national origin or ancestry, or age, shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination in the use of said improvements; (2) that in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the grounds of race, color, religion, sex, national origin or ancestry, or age, shall be excluded from participation in, denied the benefits of, or otherwise be subjected to unlawful discrimination; (3) that Airline shall use the Airport facilities in compliance with all other requirements imposed by, or pursuant to, 49 CFR, Part 21 (Non-discrimination in Federally Assisted Programs of the Department of

Transportation), as said regulations may be amended; and (4) Airline assures that it will undertake an affirmative action program as required by 14 CFR, Part 152, Subpart E, Non-discrimination Airport in Aid Program, to ensure that no person shall on the grounds of race, color, religion, national origin or ancestry, sex, age, or physical or mental handicap be excluded from participating in any employment activities covered in 14 CFR, Part 152, Subpart E, or such employment activities covered in Section 15-17 of the City's Code of Ordinances. Airline assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this Section 14.03. Airline assures that it will require that any covered sub-organization similarly will undertake affirmative action programs and that the sub-organization will require assurance from the sub-organization's sub-organization, as required by 14 CFR, Part 152, Subpart E, to the same affect.

Section 14.04. Payment of Taxes

Airline shall pay all taxes that may be levied, assessed or charged upon Airline or its property located on the Airport by the State of Texas or any of its political subdivisions or municipal corporations, and shall obtain and pay for all licenses and permits required by law. However, Airline shall have the right to contest, in good faith, the validity or application of any such tax, license or permit and shall not be considered in default hereunder as long as such contest is in progress. Further, Airline agrees to diligently prosecute such contest.

Section 14.05. Right to Lease to United States Government

During time of war or national emergency City shall have the right to lease the Airport landing area or any part thereof to the United States Government for use by the Armed Forces and, if any such lease is executed, the provisions of this Agreement insofar as they are inconsistent with the provisions of the lease to the Government shall be suspended; however, such suspension shall not extend the term of this Agreement. If, as a result of any such lease, the rights or duties of Airline hereunder are materially affected, then Airline shall receive an equitable rental adjustment.

Section 14.06. Notice or Consent

Any notice or consent required herein to be obtained from or given by City (or Director) may be given by Director unless otherwise provided. Consent of City or Airline when required herein shall not be unreasonably withheld, delayed or conditioned.

Section 14.07. Rights Reserved to City

Nothing contained herein shall unlawfully impair the right of City to exercise its governmental or legislative functions. This Agreement is made subject to the Constitution and laws of the State of Texas and to the Charter of the City of Houston, Texas, and to the provisions of the Airport Improvement Program Grant Agreements applicable to the Airport and its operation, and the provisions of such agreements, insofar as they are applicable to the terms and provisions of this Agreement, shall be considered a part hereof to the same extent as though copied herein at length to the extent, but only to the extent, that the provisions of any such

agreements are required generally by the United States at other civil airports receiving federal funds. To the best of the City's knowledge, nothing contained in such laws or agreements conflicts with the express provisions of this Agreement.

Section 14.08. Favored Nations

City covenants and agrees not to enter into any agreement with any airline that makes substantially similar use of the Airport, which agreement contains more favorable terms than this Agreement. City further covenants and agrees not to grant to any such airline rights or privileges with respect to the Airport which are not afforded to Airline hereunder unless substantially the same terms, rights, privileges and facilities are concurrently made available to Airline.

Section 14.09. Notices

Except notices required under Sections 14.02.C.10 and 14.01 herein where notice shall be acceptable if given either in writing or verbally to Airline's designated representative, or his/her designee, notices to City and/or Airline provided for herein shall be deemed sufficiently given when delivered or when mailed by overnight express delivery, or certified or registered mail, postage prepaid, or when given by telephone immediately confirmed in writing by facsimile (or other communications device acceptable to the party) as follows or to such other address, telephone or facsimile number as a party may from time to time designate in writing to the other party hereto:

To City:

Director of Aviation
Houston Airport System
16930 J.F. Kennedy Boulevard

Houston, Texas 77032
Telephone: (281) 233-1877
Facsimile: (281) 233-1864

To Airline:

(When Delivered)
Director Airport Affairs
Southwest Airlines – HDQ 4PF
2702 Love Field Drive
Dallas, TX 75235
Telephone: (214) 792-4480
Facsimile: (214) 792-4086

(When Mailed)
Director Airport Affairs
Southwest Airlines – HDQ 4PF
P. O. Box 36611
Dallas, TX 75235-1611
Telephone: (214) 792-4480
Facsimile: (214) 792-4086

Section 14.10. City's Right to Audit Books and Records

Airline agrees to keep books and records on its operations at the Airport and the Director or any other authorized City representative upon reasonable advance written notice to Airline shall have the right to inspect and audit such books and records to ensure compliance with the prevailing municipal bond disclosure requirements and to determine that City has received from Airline all moneys due the City under the terms hereof including, but not limited to, the rentals and fees and PFCs (if applicable) payable to Airport by Airline.

Section 14.11. Force Majeure

Neither City nor Airline shall be deemed in violation of this Agreement if it is prevented from performing any of its obligations hereunder by reason of strikes, boycotts, labor disputes, embargoes, shortage of material, acts of God, acts of the public enemy, acts of superior governmental authority, weather conditions, tides, riots, rebellion, sabotage, or any other circumstances for which it is not responsible or which is not in its control; provided, however, that these provisions shall not excuse Airline from paying the rentals and fees hereinbefore specified in Article V.

Section 14.12. Non-Waiver

The acceptance of fees by City for any period or periods after a default of any of the terms, covenants and conditions herein contained to be performed, kept and observed by Airline, shall not be deemed a waiver of any right on the part of City to terminate this Agreement pursuant to Article XII herein.

Section 14.13. Place of Payments

All payments required of the Airline by this Agreement shall be made payable to the City of Houston and shall be mailed to the office of the Director, Houston Airport System, City of Houston, P.O. Box 60106, George Bush Intercontinental Airport, Houston, Texas 77205-0106, or to such other officer or address as may be substituted therefor in writing to Airline by the Director.

Section 14.14. Non-liability of Individuals

No director, officer, agent or employee of either party shall be charged personally or held contractually liable by or to the other party under any term or provision of this Agreement or because of any breach thereof or because of its or their execution or attempted execution.

Section 14.15. Remedies to be Nonexclusive

All remedies provided in this Agreement shall be deemed cumulative and additional and not in lieu of or exclusive of each other or of any other remedy available to City or Airline at law or in equity (to the extent not inconsistent with the express provisions hereof) and the exercise of

any remedy or the existence herein of other remedies or indemnities shall not prevent the exercise of any other remedy.

Section 14.16. Exclusiveness of Airline's Rights

Nothing herein contained shall be deemed to grant to Airline any exclusive right or privilege within the meaning of Section 308 of the Federal Aviation Act for the conduct of any activity on the Airport, except that, subject to the terms and provisions hereof, Airline shall have the right to exclusive possession of the Exclusive Use Space leased to Airline under the provisions of this Agreement.

Section 14.17. Other Land and Buildings Excluded

It is agreed and understood that it is not intended by this Agreement or any exhibit hereto to lease any building, space or area, or set any rental rates for any building, space or area, other than what is specifically described herein.

Section 14.18. Titles

The titles of the several articles of this Agreement are inserted herein for convenience only and are not intended and shall not be construed to affect in any manner the terms and provisions hereof or the interpretation or construction thereof.

Section 14.19. Invalid Provisions

In the event any covenant, condition or provision herein contained is held to be invalid by a court of competent jurisdiction, the invalidity of any such covenant, condition or provision shall in no way affect any other covenant, condition, or provision herein contained, provided the invalidity of any such covenant, condition or provision does not materially prejudice either City or Airline in its respective rights and obligations contained in the valid covenants, conditions and provisions of this agreement.

Section 14.20. Enforcement

The City Attorney or his or her designee shall have the right to enforce all legal rights and obligations under this Agreement without further authorization. Airline covenants to provide to the City Attorney all documents and records that the City Attorney reasonably requests to assist in determining Airline's compliance with this Agreement when a good faith basis exists for the belief that Airline is not in compliance with this Agreement, with the exception of those documents made confidential by federal or state law or regulations and provided that the provision of such documents and records by Airline shall be further limited in any respect that the provision of any documents or records of City pertaining to this Agreement would be limited pursuant to Chapter 552, Texas Government Code, as amended or otherwise.

Section 14.21. Operation of Airport

City agrees to maintain and operate the Airport in accordance with all applicable standards, rules and regulations of the Federal Aviation Administration or its successor. City shall exercise its rights hereunder and otherwise operate the Airport with due regard for the operational requirements and long-term interests of the airlines and the interests of traveling public, in a manner that is consistent with applicable law, federal aviation regulation, federal grant assurances, and City airport revenue bond ordinances.

Section 14.22. Modification of Agreement

A. Entire Agreement. This Agreement constitutes the entire Agreement of the parties on the subject matter hereof and may not be changed, modified, discharged or extended except by written instrument duly executed by City and Airline. Airline agrees that no representations or grant of rights or privileges shall be binding upon City unless expressed in writing in this Agreement.

B. Exhibits Modified Without Formal Amendment. Notwithstanding anything in this Agreement to the contrary, the Parties may, with mutual agreement substitute any exhibit hereto without the need of formal amendment of this Agreement. The Parties acknowledge that new AutoCAD drawings of the Terminal Complex may result in an increase or decrease of square footage, necessitating the modification of exhibits.

Section 14.23. Successors and Assigns

The provisions of this Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto; provided, however, this provision shall in no way whatsoever alter the restriction herein regarding assignment and subletting by Airline.

Section 14.24. Subordination

City agrees that the Director, in his discretion, and subject to approval of the City Attorney, shall be permitted to, from time to time, execute any agreement providing for the subordination of any statutory or constitutional landlord's lien over any of Airline's property acquired in connection with any bona fide, third party purchase money equipment (or other personal property) financing (whether through a sale leaseback financing or other equipment lease financing transaction), it being further agreed that the financing of costs expended by Airline for the purchase of equipment or personal property within twelve (12) months prior to such financing transaction shall be considered purchase money financing hereunder; provided, however, that such subordination shall be limited to Airline's property that is financed or refinanced in such transaction.

Section 14.25. Bond Ordinance

The City's covenants described in this Agreement are in all respects subject and subordinate to any and all City's covenants set forth in the Bond Ordinances applicable to the Airport and to any other Bond Ordinances which should amend, supplement or replace same.

Section 14.26. Federal Grant Assurances

Federal law requires that sponsors of public airports accepting Airport Improvement Program ("AIP") grants agree to comply with all federal grant assurances (*see* 49 U.S.C. §47107). Under the AIP, the City has entered into agreements with the FAA and has agreed to specific federal obligations, including without limitation the obligations related to economic nondiscrimination, the use of airport revenue, and maintenance of a self-sustaining rate structure. Accordingly, Airline covenants and agrees that this Agreement in all respects shall be subordinated to the City's obligations to comply with federal law, FAA regulation, and its grant assurance obligations for existing or future grants. Airline agrees to take no action that could place the City in violation of its grant assurance obligations even if such action is otherwise permitted under this Agreement.

Section 14.27. Controlling Provisions

In the event of a conflict in the provisions of this Agreement with any other related documents, including the MOA and other airport rules and regulations, the provisions of this Agreement shall control.

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EXECUTED in multiple counterparts by the Parties, each of which is deemed to be an original.

ATTEST:



City Secretary

CITY OF HOUSTON:


By: 
Mayor 

ATTEST:




Secretary

SOUTHWEST AIRLINES CO.



By: 
Federal Tax ID 74-1563240

Print: Bob Montgomery
Vice President Airport Affairs

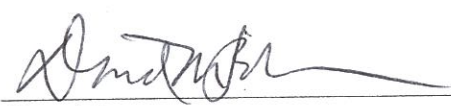
APPROVED:


Mario C. Diaz
Director, Houston Airport System

COUNTERSIGNED:

By: 
City Controller 

APPROVED AS TO FORM:


City Attorney

DATE COUNTERSIGNED:

2-25-13

EXHIBIT A

Airport Layout Plan

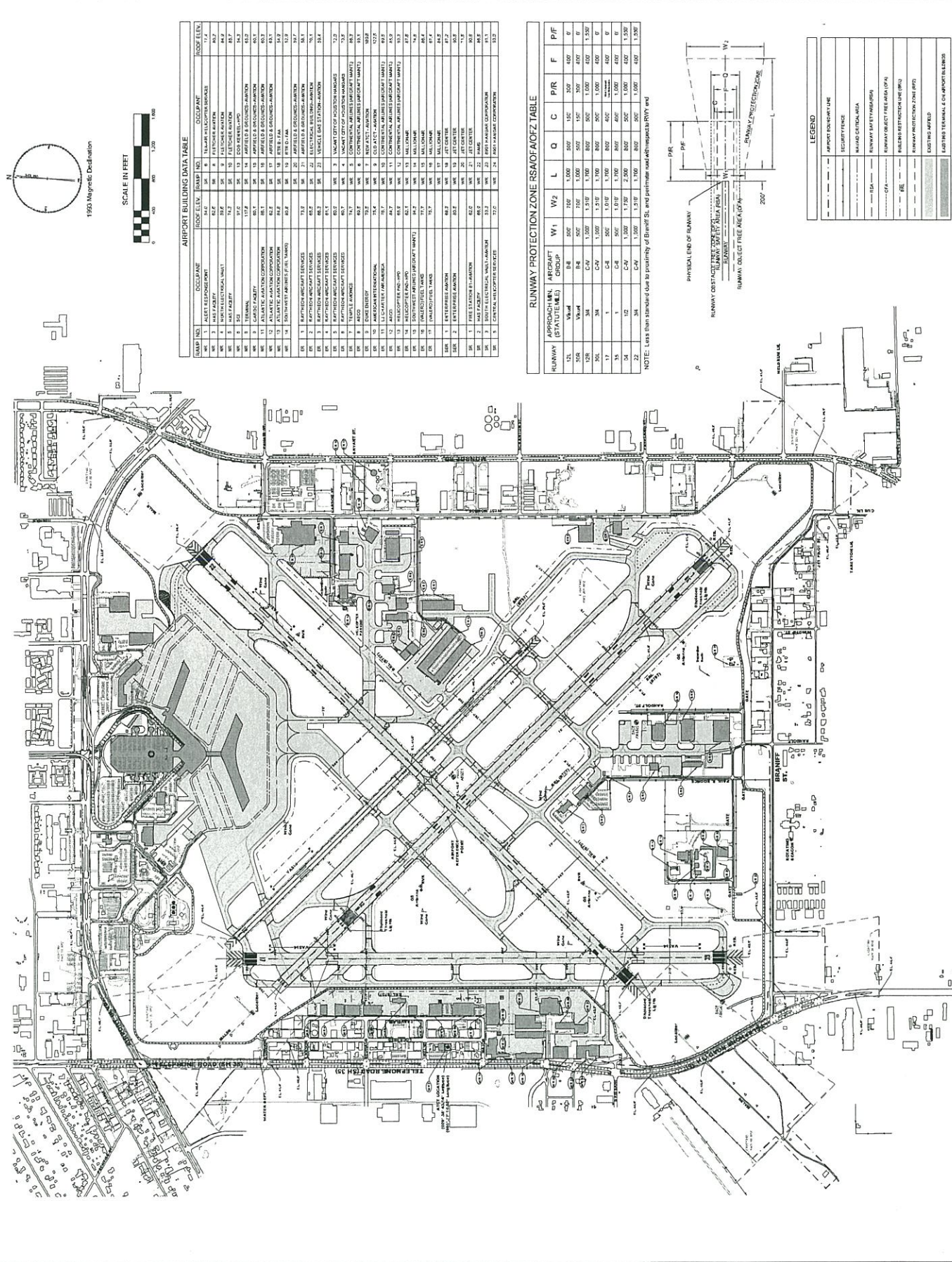
1 Page

NO.	REVISIONS	DATE

WILLIAM P. HOBBY AIRPORT
EXISTING AIRPORT LAYOUT PLAN
EXHIBIT A

PROJECT NO: W/P
 DRAWN BY: BRL, ZEKKA
 SCALE: N/A
 DATE: 01-15-2013

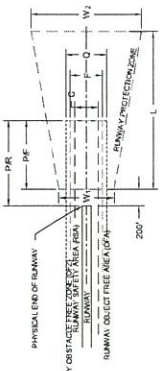
APPROVED BY:	
PROJECT NO:	N/A
A.P. NO.:	N/A
C.P. NO.:	N/A
H.A.S. NO.:	N/A
SHEET NO.:	N/A



GROUP	NO.	OCCUPANCY	HOIST ELEV.	GROUP	NO.	OCCUPANCY	HOIST ELEV.
1	1	HAZARDOUS WASTE	80.0	28	TELEPHONE	80.0	80.0
1	2	HAZARDOUS WASTE	80.0	29	TELEPHONE	80.0	80.0
1	3	HAZARDOUS WASTE	80.0	30	TELEPHONE	80.0	80.0
1	4	HAZARDOUS WASTE	80.0	31	TELEPHONE	80.0	80.0
1	5	HAZARDOUS WASTE	80.0	32	TELEPHONE	80.0	80.0
1	6	HAZARDOUS WASTE	80.0	33	TELEPHONE	80.0	80.0
1	7	HAZARDOUS WASTE	80.0	34	TELEPHONE	80.0	80.0
1	8	HAZARDOUS WASTE	80.0	35	TELEPHONE	80.0	80.0
1	9	HAZARDOUS WASTE	80.0	36	TELEPHONE	80.0	80.0
1	10	HAZARDOUS WASTE	80.0	37	TELEPHONE	80.0	80.0
1	11	HAZARDOUS WASTE	80.0	38	TELEPHONE	80.0	80.0
1	12	HAZARDOUS WASTE	80.0	39	TELEPHONE	80.0	80.0
1	13	HAZARDOUS WASTE	80.0	40	TELEPHONE	80.0	80.0
1	14	HAZARDOUS WASTE	80.0	41	TELEPHONE	80.0	80.0
1	15	HAZARDOUS WASTE	80.0	42	TELEPHONE	80.0	80.0
1	16	HAZARDOUS WASTE	80.0	43	TELEPHONE	80.0	80.0
1	17	HAZARDOUS WASTE	80.0	44	TELEPHONE	80.0	80.0
1	18	HAZARDOUS WASTE	80.0	45	TELEPHONE	80.0	80.0
1	19	HAZARDOUS WASTE	80.0	46	TELEPHONE	80.0	80.0
1	20	HAZARDOUS WASTE	80.0	47	TELEPHONE	80.0	80.0
1	21	HAZARDOUS WASTE	80.0	48	TELEPHONE	80.0	80.0
1	22	HAZARDOUS WASTE	80.0	49	TELEPHONE	80.0	80.0
1	23	HAZARDOUS WASTE	80.0	50	TELEPHONE	80.0	80.0
1	24	HAZARDOUS WASTE	80.0	51	TELEPHONE	80.0	80.0
1	25	HAZARDOUS WASTE	80.0	52	TELEPHONE	80.0	80.0
1	26	HAZARDOUS WASTE	80.0	53	TELEPHONE	80.0	80.0
1	27	HAZARDOUS WASTE	80.0	54	TELEPHONE	80.0	80.0
1	28	HAZARDOUS WASTE	80.0	55	TELEPHONE	80.0	80.0
1	29	HAZARDOUS WASTE	80.0	56	TELEPHONE	80.0	80.0
1	30	HAZARDOUS WASTE	80.0	57	TELEPHONE	80.0	80.0
1	31	HAZARDOUS WASTE	80.0	58	TELEPHONE	80.0	80.0
1	32	HAZARDOUS WASTE	80.0	59	TELEPHONE	80.0	80.0
1	33	HAZARDOUS WASTE	80.0	60	TELEPHONE	80.0	80.0
1	34	HAZARDOUS WASTE	80.0	61	TELEPHONE	80.0	80.0
1	35	HAZARDOUS WASTE	80.0	62	TELEPHONE	80.0	80.0
1	36	HAZARDOUS WASTE	80.0	63	TELEPHONE	80.0	80.0
1	37	HAZARDOUS WASTE	80.0	64	TELEPHONE	80.0	80.0
1	38	HAZARDOUS WASTE	80.0	65	TELEPHONE	80.0	80.0
1	39	HAZARDOUS WASTE	80.0	66	TELEPHONE	80.0	80.0
1	40	HAZARDOUS WASTE	80.0	67	TELEPHONE	80.0	80.0
1	41	HAZARDOUS WASTE	80.0	68	TELEPHONE	80.0	80.0
1	42	HAZARDOUS WASTE	80.0	69	TELEPHONE	80.0	80.0
1	43	HAZARDOUS WASTE	80.0	70	TELEPHONE	80.0	80.0
1	44	HAZARDOUS WASTE	80.0	71	TELEPHONE	80.0	80.0
1	45	HAZARDOUS WASTE	80.0	72	TELEPHONE	80.0	80.0
1	46	HAZARDOUS WASTE	80.0	73	TELEPHONE	80.0	80.0
1	47	HAZARDOUS WASTE	80.0	74	TELEPHONE	80.0	80.0
1	48	HAZARDOUS WASTE	80.0	75	TELEPHONE	80.0	80.0
1	49	HAZARDOUS WASTE	80.0	76	TELEPHONE	80.0	80.0
1	50	HAZARDOUS WASTE	80.0	77	TELEPHONE	80.0	80.0
1	51	HAZARDOUS WASTE	80.0	78	TELEPHONE	80.0	80.0
1	52	HAZARDOUS WASTE	80.0	79	TELEPHONE	80.0	80.0
1	53	HAZARDOUS WASTE	80.0	80	TELEPHONE	80.0	80.0

RUNWAY	APPROACH MN. (STATUTE MILES)	ARRIVAL GROUP	W1	W2	L	Q	C	P	R	F	P/F
13L	1.000	CAV	1,000	500	150	300	500	0	0	0	0
13R	1.000	CAV	1,000	500	150	300	500	0	0	0	0
17	1.000	CAV	1,000	500	150	300	500	0	0	0	0
22	1.000	CAV	1,000	500	150	300	500	0	0	0	0

NOTE: Legs shown standard due to proximity of Braniff St. and pastures used as setbacks RPTV and



---	APPROACH RUNWAY LINE
---	SECURITY FENCE
---	HAZARDOUS WASTE
---	HAZARDOUS WASTE AREA
---	RUNWAY SURVEILLANCE
---	RUNWAY OBJECT FREE AREA (RFA)
---	TAXIWAY OBJECT FREE AREA (TOFA)
---	RUNWAY PROTECTION LINE (RPL)
---	RUNWAY PROTECTION ZONE (RPZ)
---	EXISTING ASPHALT
---	EXISTING TERMINALS OR AIRPORT BUILDINGS

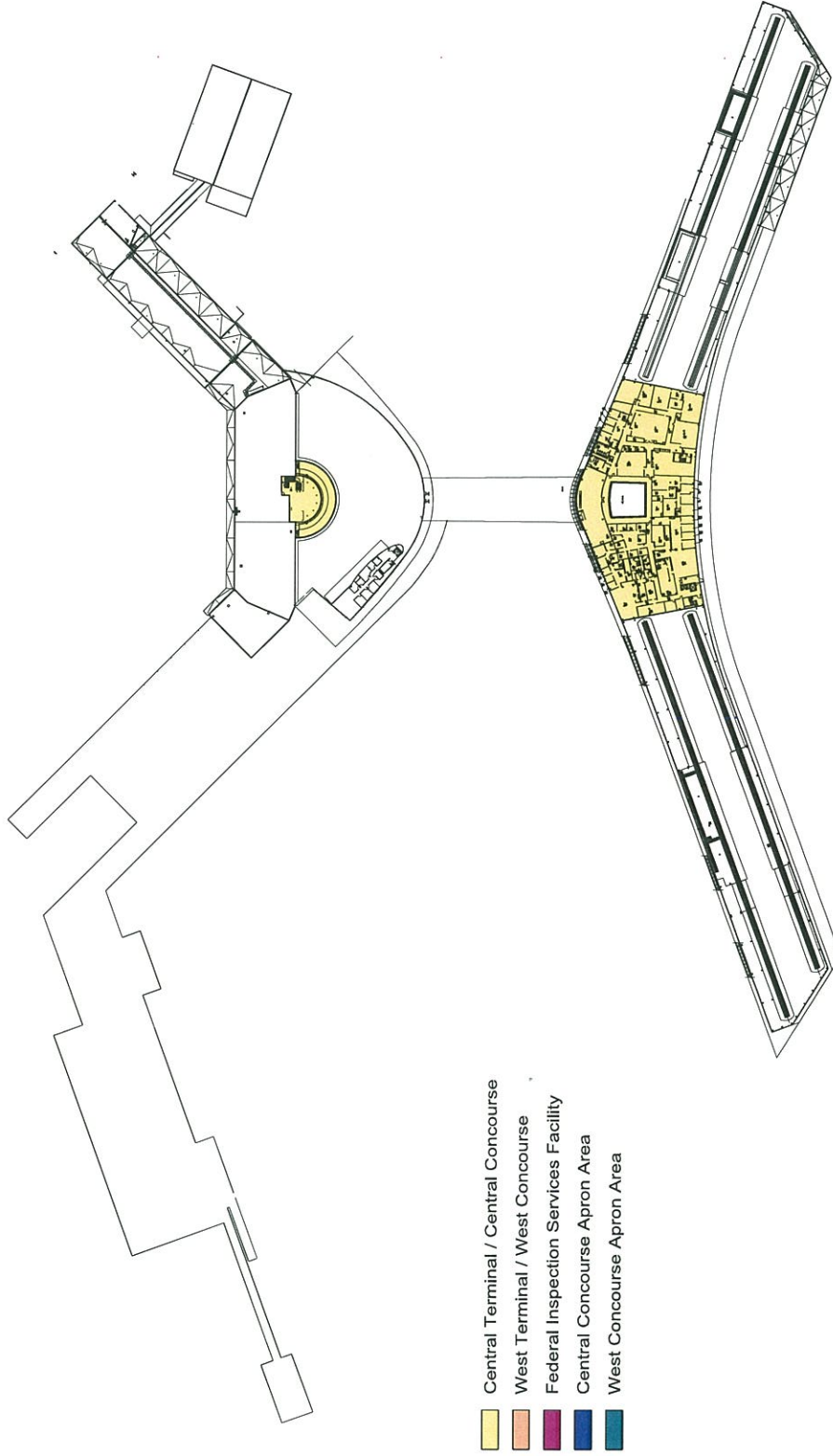
NOTE: ALL ELEVATIONS ARE FEET ABOVE MEAN SEA LEVEL UNLESS NOTED

EXHIBIT B

Terminal Complex and Terminal Apron Area Cost Centers

4 Pages

CONCEPTUAL



- Central Terminal / Central Concourse
- West Terminal / West Concourse
- Federal Inspection Services Facility
- Central Concourse Apron Area
- West Concourse Apron Area

William P. Hobby Airport
Houston, Texas

Date: 01/25/2013

Airport Cost Centers
Post DBO West Terminal/West Concourse

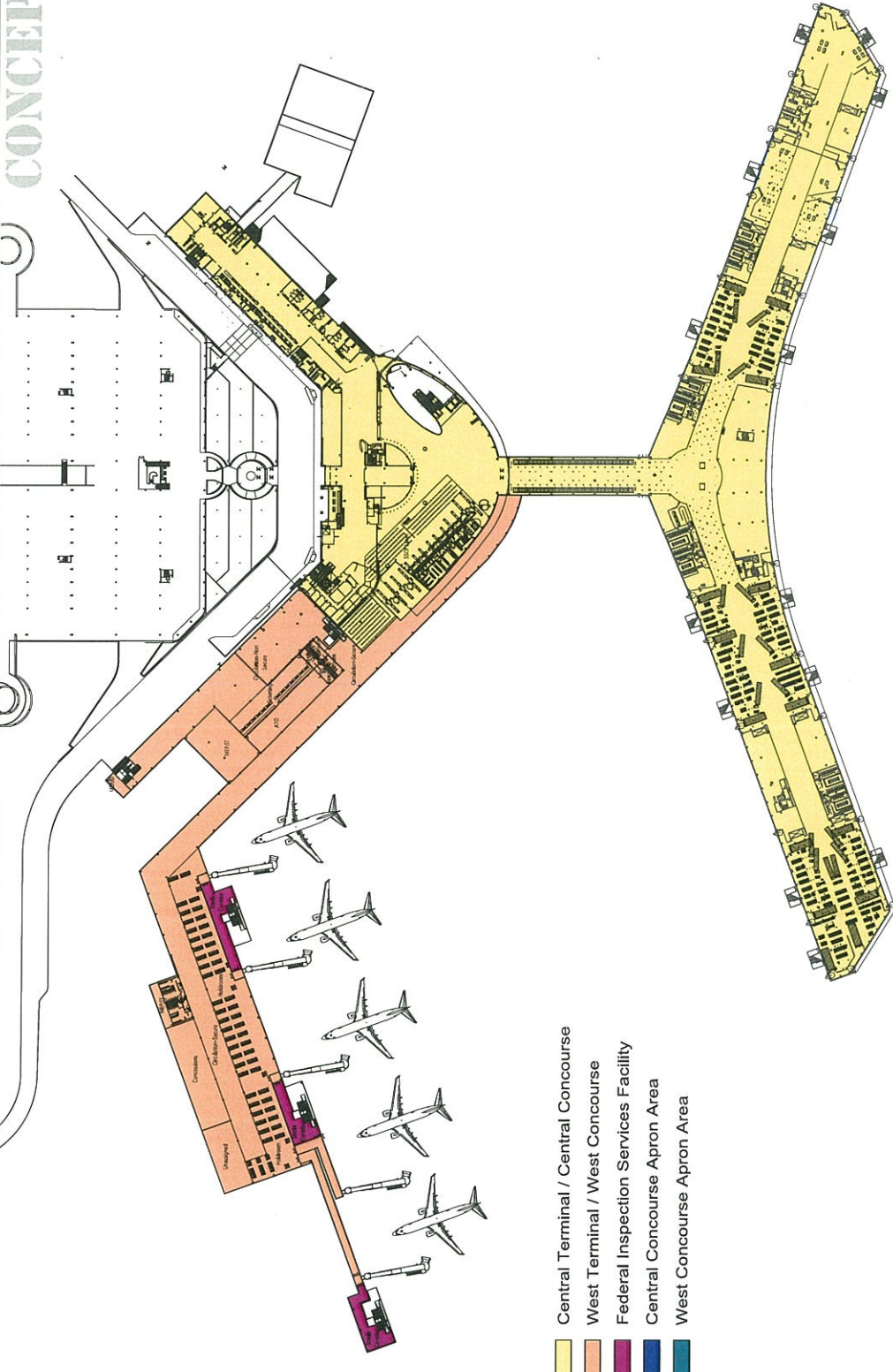
Mezzanine Level

Exhibit

B

1 of 4

CONCEPTUAL



- Central Terminal / Central Concourse
- West Terminal / West Concourse
- Federal Inspection Services Facility
- Central Concourse Apron Area
- West Concourse Apron Area

Exhibit **B**
2 of 4






Upper/Passenger Level

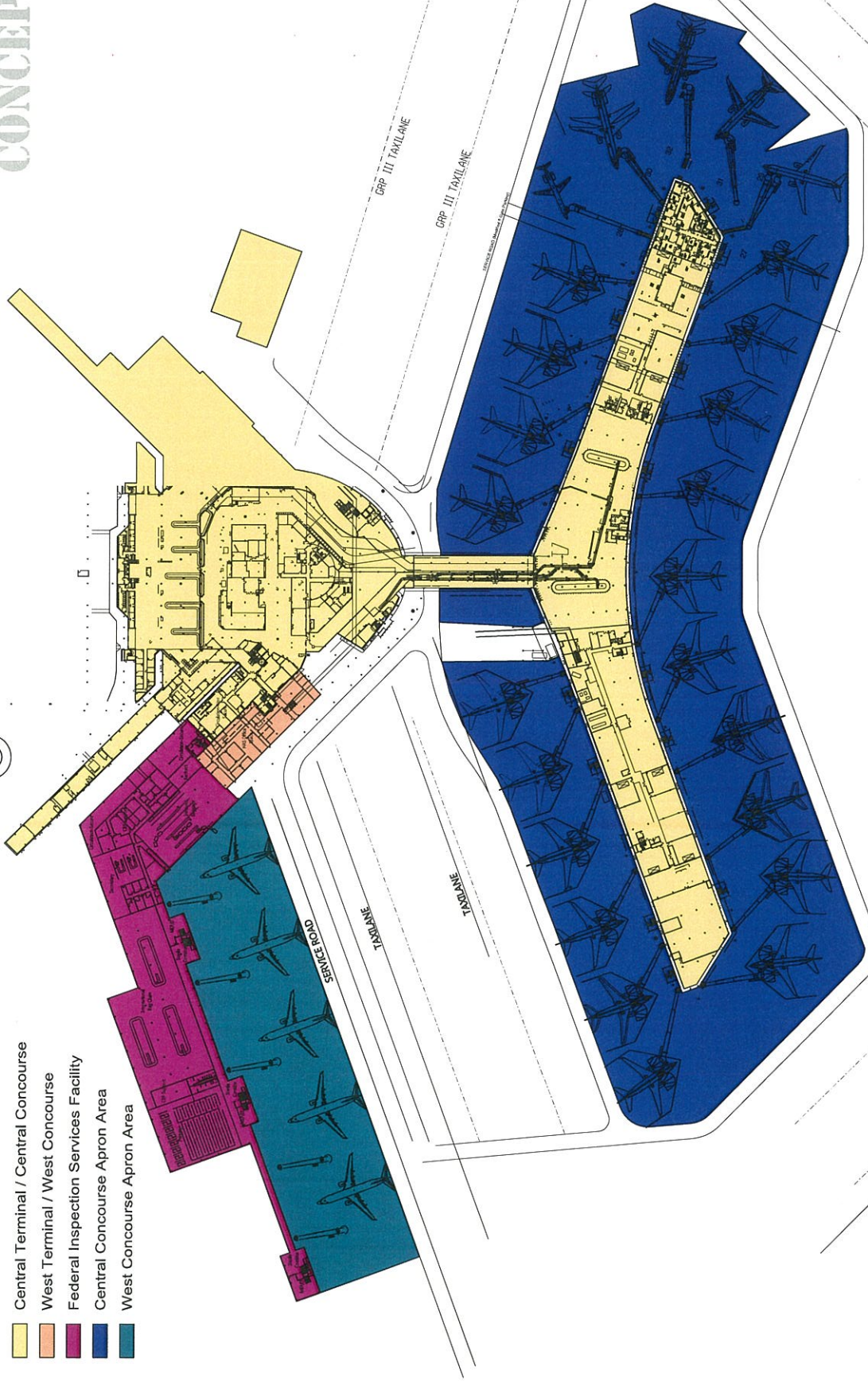
Airport Cost Centers
Post DBO West Terminal/West Concourse

Date: 01/25/2013

William P. Hobby Airport
Houston, Texas

CONCEPTUAL

-  Central Terminal / Central Concourse
-  West Terminal / West Concourse
-  Federal Inspection Services Facility
-  Central Concourse Apron Area
-  West Concourse Apron Area



William P. Hobby Airport
Houston, Texas

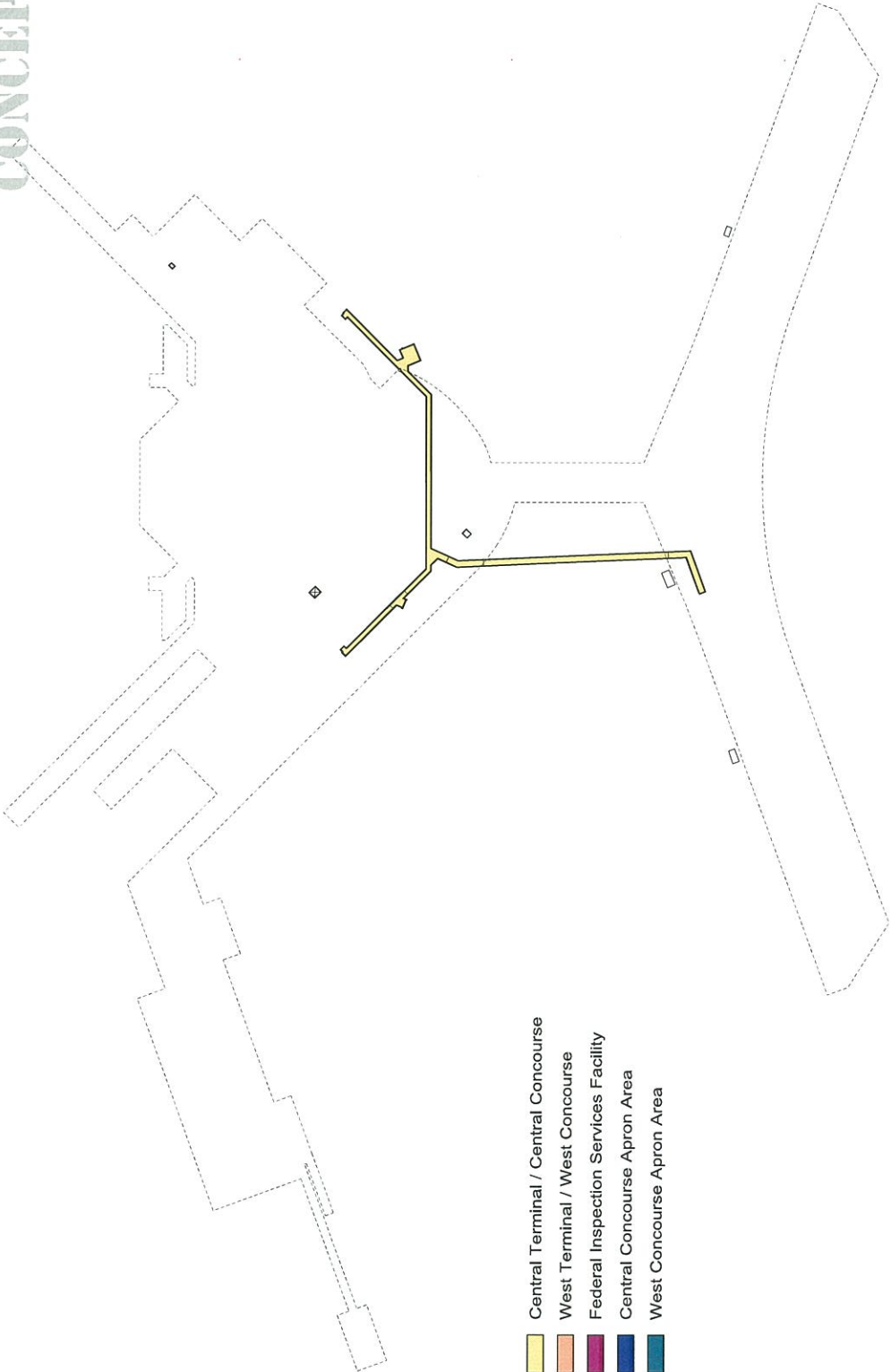
Date: 01/25/2013

Airport Cost Centers
Post DBO West Terminal/West Concourse

Lower/Baggage Level

Exhibit **B**
3 of 4

CONCEPTUAL



William P. Hobby Airport
Houston, Texas

Date:
01/25/2013

Airport Cost Centers
Post DBO West Terminal/West Concourse

Utility Level

Exhibit
B

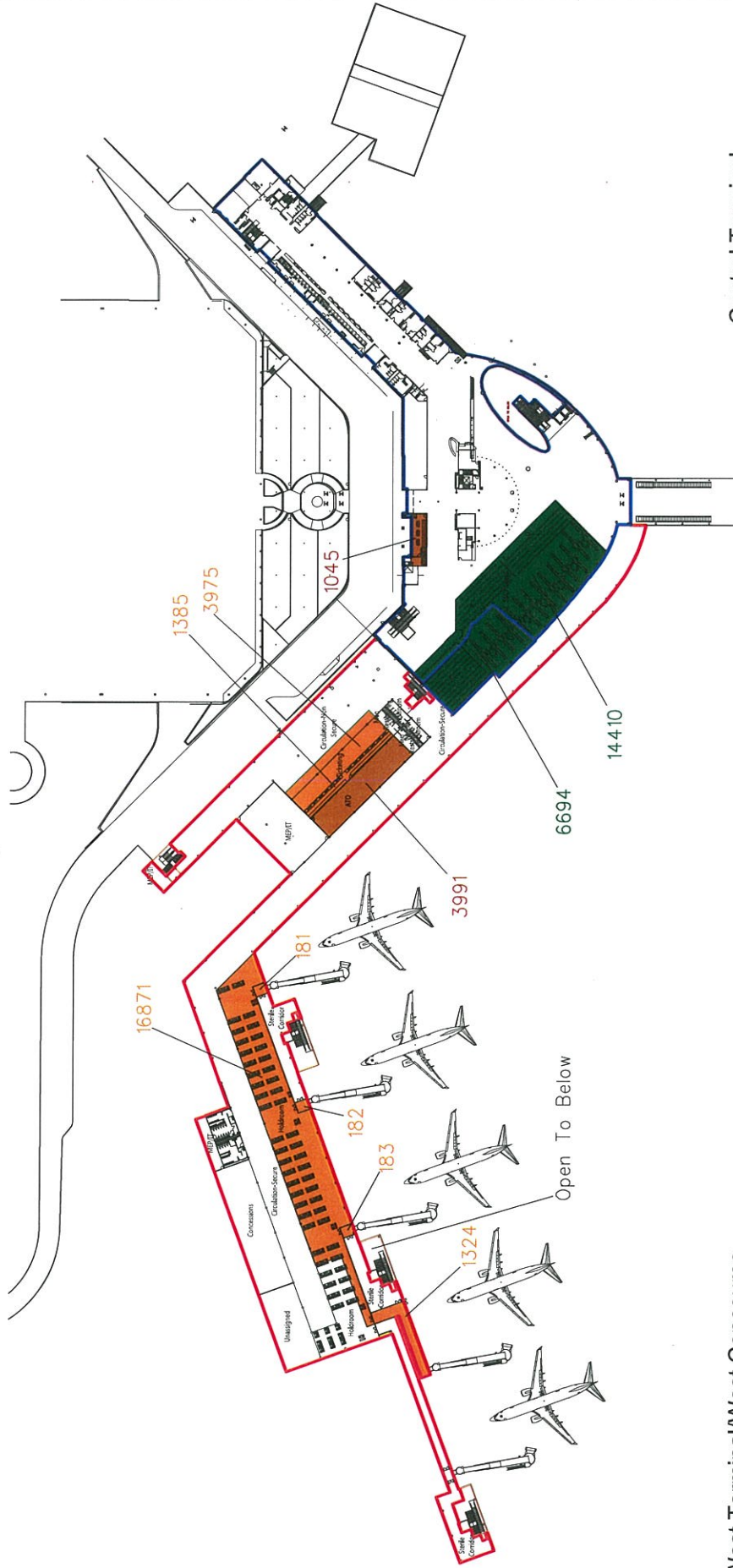
4 of 4
1/25/2013 10:25:49 AM

EXHIBIT C

Leased Premises

6 Pages

CONCEPTUAL

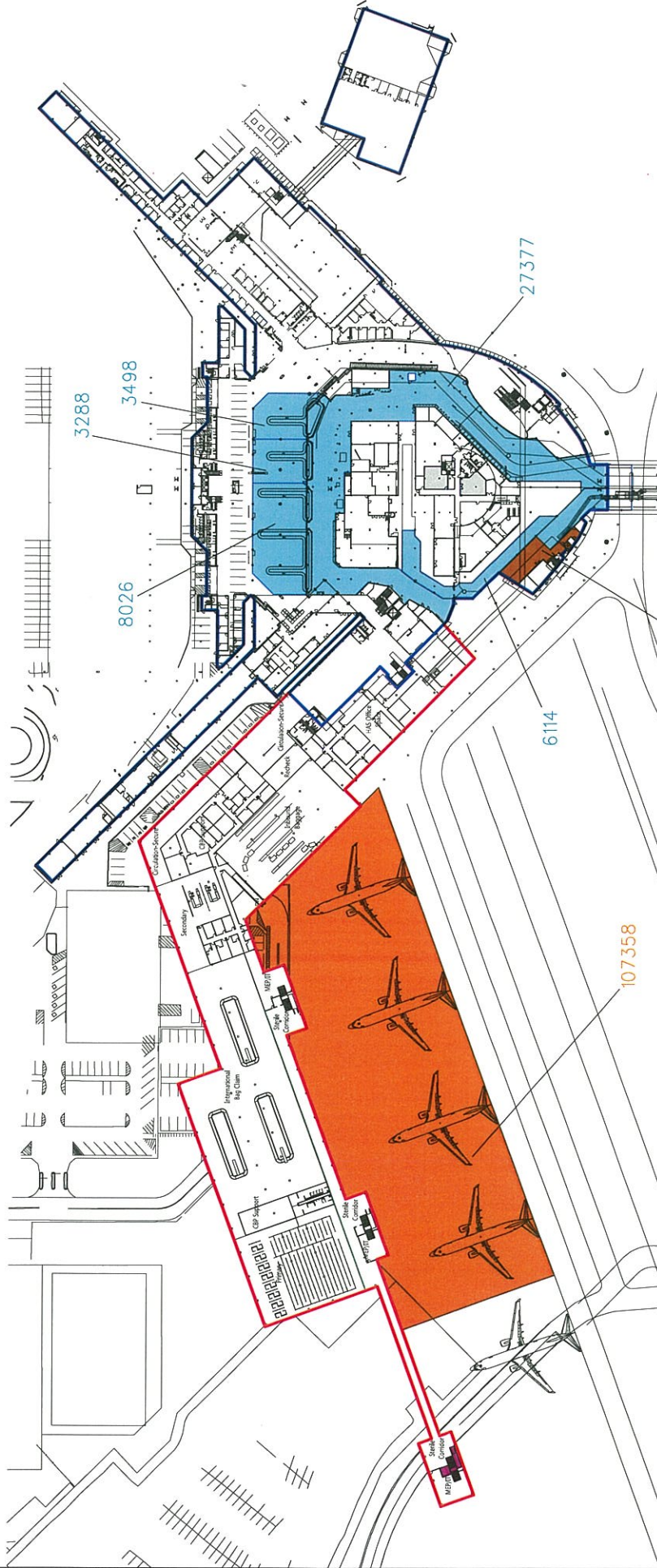


West Terminal/West Concourse

- 3991 Southwest Exclusive
- 24101 Southwest Preferential
- 0 Airline Joint Use
- 0 Security Screening

Central Terminal

- 1045 Southwest Exclusive
- 0 Southwest Preferential
- 1493 Airline Joint Use
- 21104 Security Screening



West Terminal/West Concourse

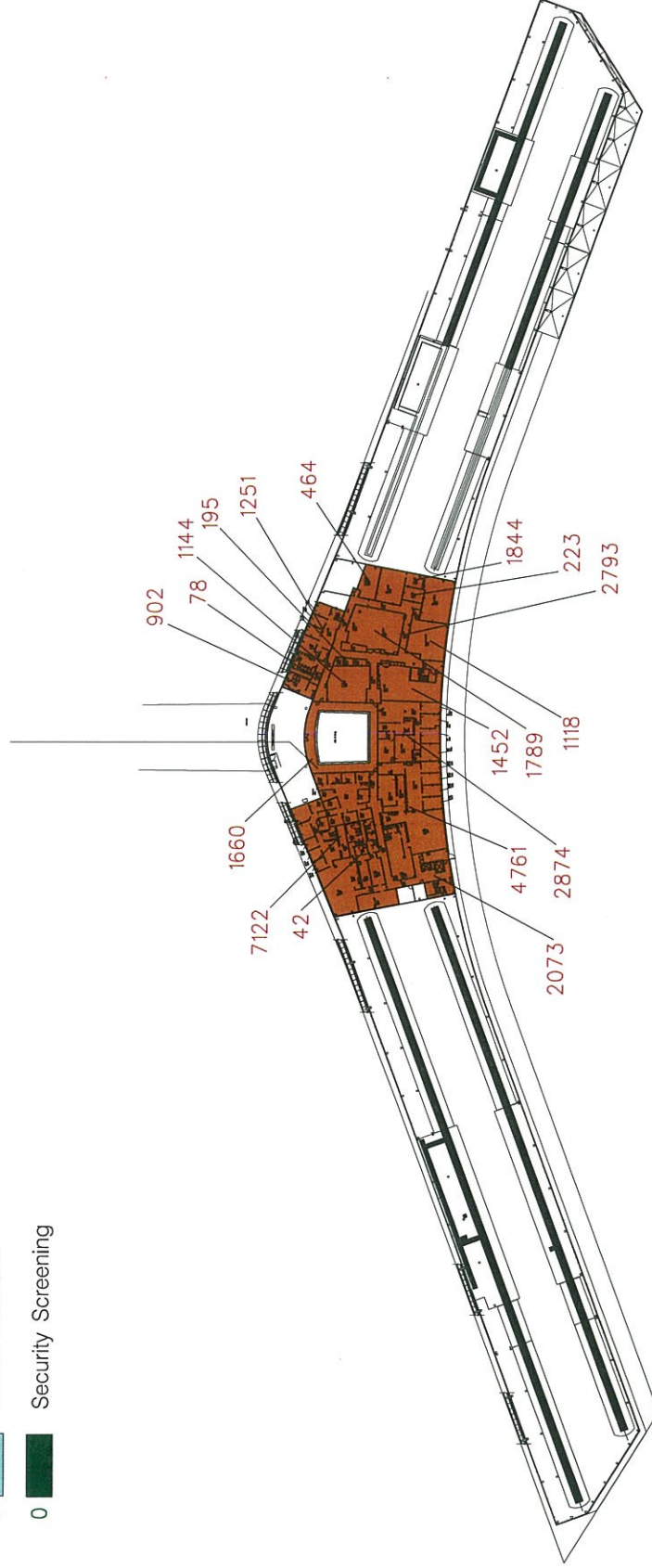
0	Southwest Exclusive
107358	Southwest Preferential
0	Airline Joint Use
0	Security Screening

Central Terminal

2042	Southwest Exclusive
0	Southwest Preferential
48303	Airline Joint Use
0	Security Screening

CONCEPTUAL

- 31785 Southwest Exclusive
- 0 Southwest Preferential
- 0 Airline Joint Use
- 0 Security Screening



Total Floor Area: 36,337 sq. ft.

William P. Hobby Airport
Houston, Texas

Date: January 25, 2013
Scale: N.T.S.

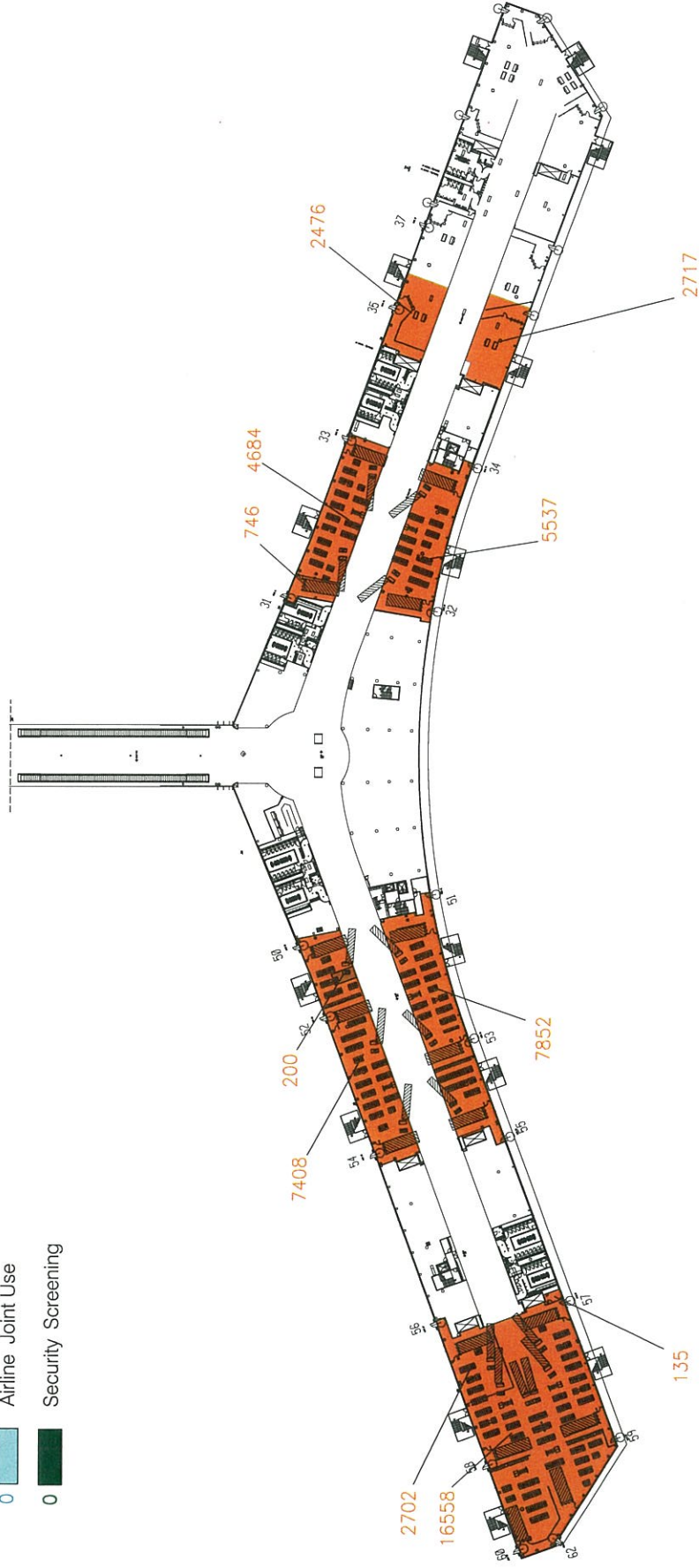
Southwest Leased Premises
Post DBO West Terminal/West Concourse

Central Concourse
Mezzanine Level

Exhibit
C
Page 3 of 6
CONCEPTUAL

CONCEPTUAL

- 0 Southwest Exclusive
- 51015 Southwest Preferential
- 0 Airline Joint Use
- 0 Security Screening



Total Floor Area: 164,175 sq. ft.

William P. Hobby Airport
Houston, Texas

Date: January 25, 2013
Scale: N.T.S.

Southwest Leased Premises
Post DBO West Terminal/West Concourse

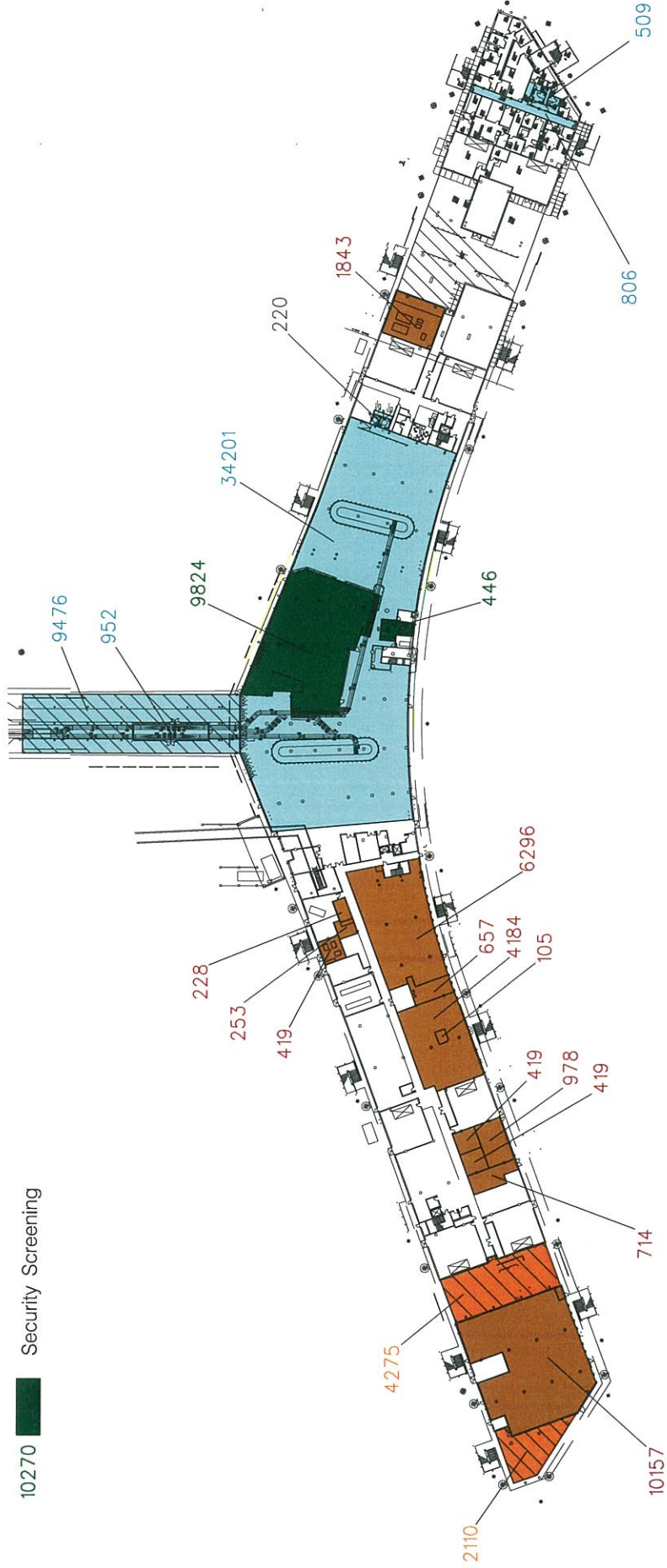
Central Concourse
Passenger Level

Exhibit
C

Page 4 of 6
CONCEPTUAL ARCHITECTURE

CONCEPTUAL

- 26672 Southwest Exclusive
- 6385 Southwest Preferential
- 46164 Airline Joint Use
- 10270 Security Screening



Total Floor Area: 152,002 sq. ft.

William P. Hobby Airport
Houston, Texas

Date: January 25, 2013
Scale: N.T.S.

Southwest Leased Premises
Post DBO West Terminal/West Concourse

Central Concourse
Apron Level

CONCEPTUAL

- 0 Southwest Exclusive
- 474306 Southwest Preferential
- 0 Airline Joint Use
- 0 Security Screening

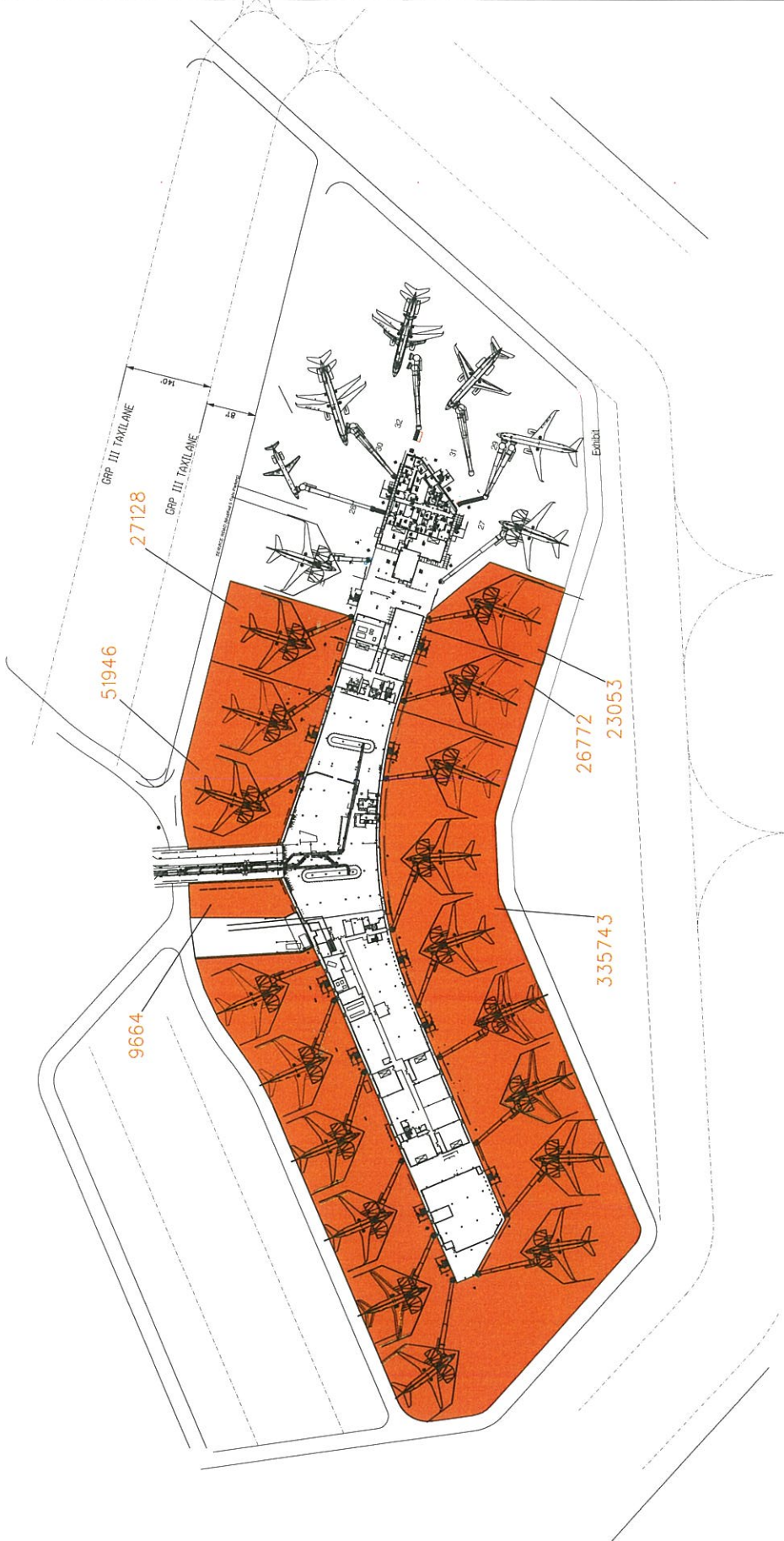


EXHIBIT D

(Reserved)

EXHIBIT E

(Reserved)

EXHIBIT F

(Reserved)

EXHIBIT G

Statistical Report Format

6 Pages

Houston Airport System
 Finance Division
 P.O. Box 60106
 Houston, TX 77205

MONTHLY AIRLINE ACTIVITY REPORT
 for the month of _____, 20__

FY13

AIRPORT: _____
 AIRLINE: _____

Exhibit G - Pg. 1 of 6

Fax: (281) 233-1024

E-mail: has.stats@houstontx.gov

Concourse (Please use one form per concourse)	West	Central			
---	------	---------	--	--	--

PASSENGER TRAFFIC	ARRIVALS			Pre-cleared	DEPARTURES				Passengers Using In-transit Lounge
	Destination (A)	Non-rev (B)	TOTAL (A+B)		Originating (D)	Connecting (E)	Non-Rev (F)	TOTAL (D+E+F)	
Domestic									
0 USA			0					0	
1 US Territories			0					0	
Total Domestic	0	0	0		0	0	0	0	
International									
2 Mexico			0					0	0
3 Latin America			0					0	
4 Carribean (Non-US)			0					0	
5 Europe			0					0	
6 Canada			0					0	
7 Asia			0					0	
8 Pacific Rim			0					0	
9 Africa			0					0	
Total International	0	0	0	0	0	0	0	0	0
Total Passengers	0	0	0	0	0	0	0	0	0

AIR CARGO (pounds)	ARRIVALS/DEPLANED			DEPARTURES/ENPLANED		
	FREIGHT (A)	MAIL (B)	TOTAL (A+B)	FREIGHT (C)	MAIL (D)	TOTAL (C+D)
Domestic						
0 USA			0			0
1 US Territories			0			0
Total Domestic	0	0	0	0	0	0
International						
2 Mexico			0			0
3 Latin America			0			0
4 Carribean (Non-US)			0			0
5 Europe			0			0
6 Canada			0			0
7 Asia			0			0
8 Pacific Rim			0			0
9 Africa			0			0
Total International	0	0	0	0	0	0
Total Cargo	0	0	0	0	0	0

PREPARED BY: _____ DATE: _____ APPROVED BY: _____

FAX NUMBER: _____ PHONE NUMBER: _____ E-MAIL ADDRESS: _____

THIS REPORT IS DUE ON OR BEFORE THE 10TH DAY OF EACH MONTH

Notes on completing the Activity Report

- Destination Passengers: Arriving Passengers other than non-revenue.
- Pre-cleared: Passengers arriving on an international flight that has cleared US customs at another port and are ALSO included in Arrivals.
- Originating: Departing Passengers who start their travel in Houston and are not on-line transfers or in-transit lounge users.
- Connecting: Departing Passengers who transfer from an arriving flight of the same Airline. Includes International Passengers using the In-transit lounge. Identified only as Departing Passengers.
- Non-revenue: Passengers who do not purchase their tickets. Does NOT include passengers using frequent flyer rewards.
- Passengers Using In-transit Lounge: Passengers using the in-transit lounge, who are ALSO included in the Connecting category and Departures Total.

HOUSTON AIRPORT SYSTEM

FY13

Exhibit G - Pg. 2 of 6

**Monthly Report of Actual Aircraft Landings
and Self Invoicing Form**

HOU Airport		Airline		Month/Year	
(1) Aircraft Type	(2) Domestic Landings	(3) International Landings	(4) Total Landings	(5) Maximum Gross Certificated Landing Weight	(4x5) Total Weight (in 000s)
			0		0.000
			0		0.000
			0		0.000
			0		0.000
			0		0.000
			0		0.000
			0		0.000
			0		0.000
			0		0.000
			0		0.000
(7) Totals	<u>0</u>	<u>0</u>	<u>0</u>		<u>0.000</u>

(8)(a) Minimum landing fee of \$25.00 per landing for FY 2013, if gross landed weight is less than 12,582 lbs.	Landings	_____	x	\$25.00	\$	-
(8)(b) Other landings	Landed Wt.	0.000	x	\$1.987	\$	-
(9) 25% Non-signatory premium (if applicable, multiply amount in either 8a or 8b by .25)					\$	-
(10) Fees due City of Houston (Total landed weight x Rate per 1,000 pounds)					\$	<u>-</u>

This report and your check are to be submitted to the Aviation Department by the 10th day of each month.
(See next tab for instructions.)

Airline:

Prepared By _____	Telephone number _____
Approved by _____	Date _____

Remit to: Department of Aviation
Finance Division
P. O. Box 60106
Houston, TX 77205

HOUSTON AIRPORT SYSTEM

William P. Hobby (HOU)
Self Invoicing Form for Non-Preferential Gate Use Charges
 FY 2013 (July 1, 2012 - June 30, 2013)

<u>Airline</u>	<u>Month / Year</u>
Gate number used: _____ (Please use a separate page per gate number)	Aircraft Type: Standard

Gate Area Use Charges	<u>*Flight Segment</u>	<u>Rate</u>	=	<u>Amount</u>
Aircraft Apron Use	_____ X	<u>\$ 23.17</u>	=	<u>\$ -</u>
Loading Bridge Use	_____ X	<u>\$ 3.71</u>	=	<u>\$ -</u>
Holdroom Use	_____ X	<u>\$ 106.79</u>	=	<u>\$ -</u>
Amount Due				<u>\$ -</u>

* A flight segment is a gate arrival (in) or departure (out) usage

Other Charges	<u>Quantity</u>	<u>Rate</u>	=	<u>Amount</u>
Ticket Counter & Queueing (per counter)	_____ X	<u>\$ 18.65</u>	=	<u>\$ -</u>
Common Use (per enplaned passenger)	_____ X	<u>\$ 3.55</u>	=	<u>\$ -</u>
(per deplaned passenger)	_____ X	<u>\$ 3.55</u>	=	<u>\$ -</u>
Amount Due				<u>\$ -</u>

Subtotal of Gate Area Use and Other Charges	\$ -
Administrative Fees (Terminal Non-Signatory) - 25% of Subtotal **	\$ -
-- Landing Fee (\$1.987 per 1,000 lbs. - to be filled out on landing fee report)	
Total amount due to City of Houston	\$ -

This report and your check are to be submitted to the Houston Airport System by the 10th of each month.

X _____
Company submitting this report

X _____
Prepared by Date

Telephone Number

Remit to: Houston Airport System
 Finance Division
 P.O. Box 60106
 Houston, TX 77205
 (281) 233-3000

** If applicable (25% rate effective July 1, 2015)

HOUSTON AIRPORT SYSTEM

Exhibit G - Pg. 4 of 6

FIS
William P Hobby Airport (HOU)
FY 2013

Airline

Month/Year

FIS West Concourse

Total International Arriving Passengers - West Concourse

Less: Total Pre-cleared International Arriving Passengers - West Concourse

Total International Arriving Passengers Using FIS

Rate

Amount Due

	0
\$	-
\$	-

25% Non-signatory Premium (if applicable, multiply Amount Due by .25)

\$ -

Total due for West Concourse FIS

\$ -

This report and your check are to be submitted to the Houston Airport System by the 10th of each month.

Prepared By

Date

Telephone Number

Approved By

Date

Remit to:

Houston Airport System
Finance Division
P.O. Box 60106
Houston, TX 77205
(281) 233-3000

HOUSTON AIRPORT SYSTEM Exhibit G - Pg. 5 of 6

**Self Invoicing Form on Actual Usage
West Concourse
William P Hobby Airport (HOU)
FY 2013**

--	--

Airline

Month/Year

ARRIVALS

Gate Arrival	
International Arriving Passengers	0
Domestic Arriving Passengers	0
Total Arriving Passengers	0
Rate	\$ -
Amount Due	\$ -

25% Non-signatory Premium (if applicable, multiply Amount Due by .25)	\$ -
---	------

Reserved for future use	0
	\$ -
	\$ -

Reserved for future use	0
	\$ -
	\$ -

Reserved for future use	0
	\$ -

Reserved for future use	0
	\$ -
	\$ -

Total West Concourse use fees amount due City of Houston **\$ -**

This report and your check are to be submitted to the Houston Airport System by the 10th of each month.

Prepared By _____ Date _____

Telephone Number _____

Approved By _____ Date _____

Remit to: Houston Airport System
Finance Division
P.O. Box 60106
Houston, TX 77205
(281) 233-3000

Instructions for Preparation of Monthly Report of
Actual Aircraft Landings and Self Invoicing Form

Exhibit G - Pg. 6 of 6

This report is required to be made on or before the 10th day of each month covering operations during the preceding month. The following describes the preparation of the report.

- Column (1) Enter the designation of the type of aircraft operated. Where two different types of aircraft have been operated during the month, show two entries, one for each type of aircraft.
- Column (2) Enter in this column the number of Domestic Landings for the specified aircraft type for the month
- Column (3) Enter in this column the number of International Landings for the specified aircraft type for the month.
- Column (4) Enter in this column the total of Column (2) and column (3) for each aircraft type.
- Column (5) Enter in this column the Maximum Certificated Gross Landing Weight for the specified aircraft type.
- Column (6) Enter in this column the computation of Column (4) times Column (5) and divided by 1,000.
- Line (7) Enter the totals for Column (2), Column (3), Column (4), and Column (6).
- Line (8a) Gross landing weight is less than specified weight for fiscal year, multiply by \$25.00 per landing.
- Line (8b) Current Landing Rate Per 1,000 Pounds.
- Line (9) Enter the computation of the Non-signatory premium if applicable
- Line (10) Enter the computation of fees due the City. Multiply the Total Gross Landing Weight times the Landing Fee Rate.

Spaces are provided to list the Airport, reporting Airline, Month/Year date, Prepared By, Telephone Number, and Approvals to certify the computations before sending the report to the city. Upon receipt, the report will be checked and approved. Payment is required no later than the 10th of the month.

EXHIBIT H

Illustrative Calculation of Rates and Charges

1 Page

Exhibit H

ILLUSTRATIVE CALCULATION OF RATES AND CHARGES (a)
William P. Hobby Airport

	West Terminal West Concourse and Apron	FIS	Central Terminal/ Concourse	Central Concourse Loading Bridge	Central Concourse Baggage Equipment	Apron Central Concourse	Airfield
Operation and Maintenance Expenses							
Direct expenses	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Allocated systems costs (b)	0	0	0	n.a.	n.a.	0	0
Indirect expenses (c)	0	0	0	n.a.	n.a.	0	0
Capital Charges							
Amortization							
Unamortized Cost of Assets Acquired on or before June 30, 1998 (d)	0	0	0	n.a.	n.a.	0	0
Assets Acquired on or after July 1, 1998 (e)	0	0	0	0	0	0	0
WN Investment in Project	0	0	0	n.a.	n.a.	0	0
Interest on Land (f)	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	0
Replenishment of Renewal and Replacement Fund (g)	0	0	0	0	0	0	0
Total costs	0	0	0	0	0	0	0
less: credits							
General aviation fuel flowage fees							0
Net costs							0
Units							
West Concourse Deplancements	750,000						
FIS Deplancements		750,000					
Central Terminal/Concourse Usable Space (square feet)			275,000				
Central Concourse Loading Bridges (number)				25			
Central Terminal/Concourse Baggage Equipment (allocated based on Common Use Formula)							
Central Concourse Apron Area (square feet)							
Total Airline Landed Weights (1,000 pound units)						190,952	6,250,000
West Terminal/Concourse rental fee (per deplancement)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
FIS Fee (per FIS deplancement)							
Central Terminal/Concourse rental rate (per square foot) (h)(i)							
Central Concourse Loading Bridge Rate (per unit)							
Central Terminal/Concourse Baggage Equipment (allocated based on Common Use Formula)					n.a.		
Central Concourse Apron fee rate (per square foot)							
Landing fee rate (per 1,000 pounds of MGLW)							
Base Capital Charge (h)		\$ 2.50					
IV-B Space Credit (i)		\$ (24.28)					

a. Based on FY 2013 Rates and Charges
b. Includes roads and systems and utilities.
c. Includes Department of Aviation and Airport Management administrative costs, police protection, fire protection, and FAR 107 & 139 costs.
d. Computed over the remaining useful life of the respective assets at the weighted average cost of capital for IAH investments as of June 30, 1998.
e. Computed over the estimated useful life of the respective assets at the current revenue bond index published by the Wall Street Journal.
f. Computed on the City's net investment in Airport land at the weighted average cost of capital for IAH assets, with 70% allocated to the Airfield cost center.
g. Recovery of amounts expended from the R&R Fund in the year following the appropriation of money from the Fund.
h. An additional charge of \$2.50 is given for the space in the Central Terminal Building.
i. A credit equal to the per square foot charge for direct expenses is provided for IV-B space.

EXHIBIT I

Summary Operation and Maintenance Responsibilities

1 Page

EXHIBIT I

William P. Hobby Airport

Summary of HOU Operation and Maintenance Responsibilities for Terminal Complex and Terminal Apron Area

	Exclusive Use Areas	Preferential Use Areas	Common Use Areas	Joint & Public Use Areas
Building Exteriors	C	C	C	C
Loading Bridges (1)	-	C	C	-
Baggage Handling Systems (1)	-	-	C	C
People Movers (2)	A	C	C	C
Installed Central HVAC System	C	C	C	C
Decorating and Redecorating	A	C	C	C
Plumbing	A	C	C	C
Electric Lighting and Relamping	A	C	C	C
Janitorial Cleaning (3)	A	A	C	C
Window Cleaning (airline responsible for inside only)	A	C	C	C
Restroom Maintenance	A	C	C	C
Signage	A	C	C	C
Aircraft Apron Structural (4)	-	C	C	-
Aircraft Parking Striping	-	C	C	-

KEY A = Airline
C = City

(1) City shall provide maintenance (including routine and scheduled maintenance) for all City-owned passenger loading bridges and City-owned baggage systems. Airline shall clear all jams from the baggage handling system.

(2) To include City owned and City installed elevators, escalators and moving walkways.

(3) Airline to provide cleaning inside Passenger Loading Bridges.

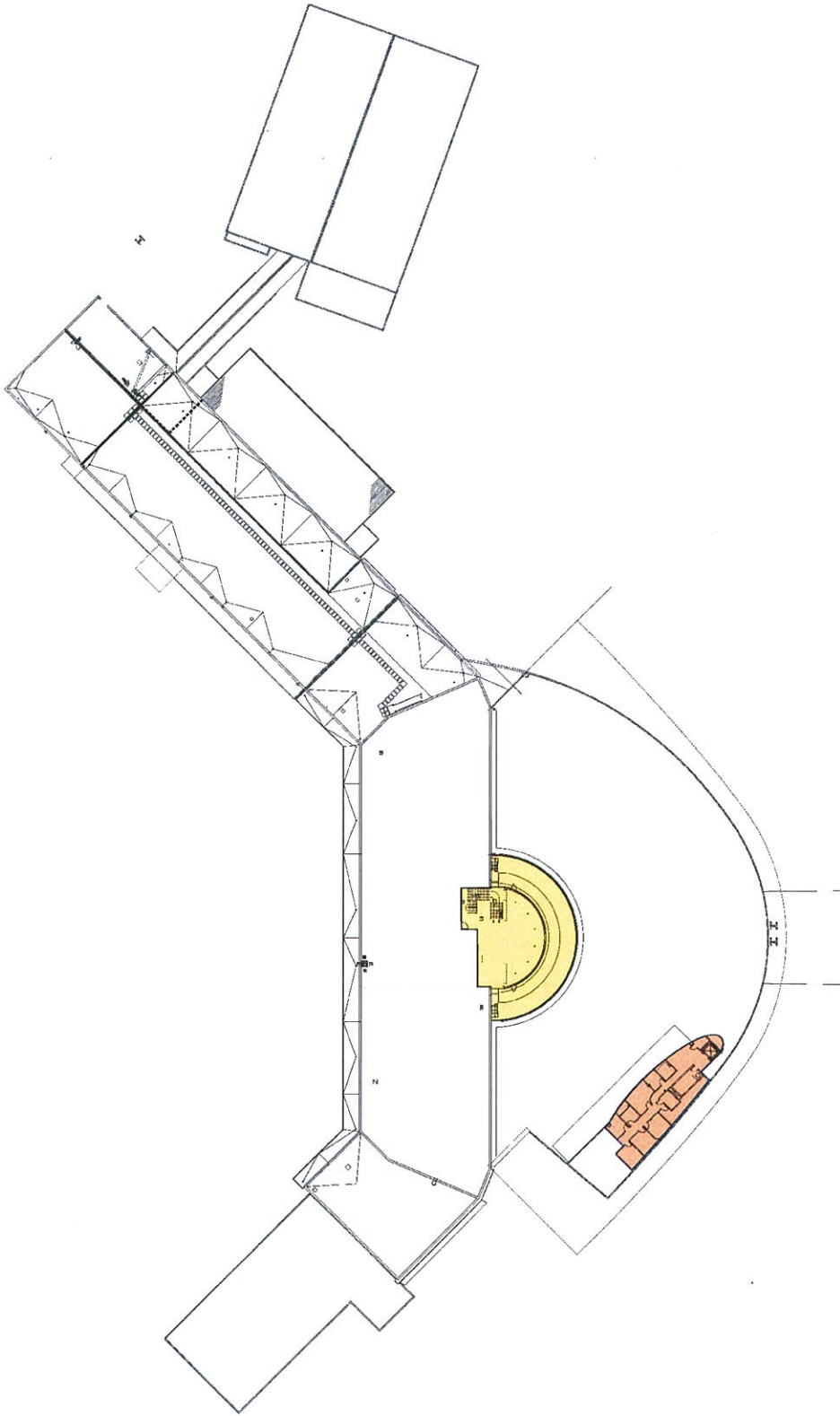
(4) Airline shall keep area clean, neat and orderly and periodically remove grease and oil.

**** Airline shall repair and maintain all Airline-installed improvements and systems.

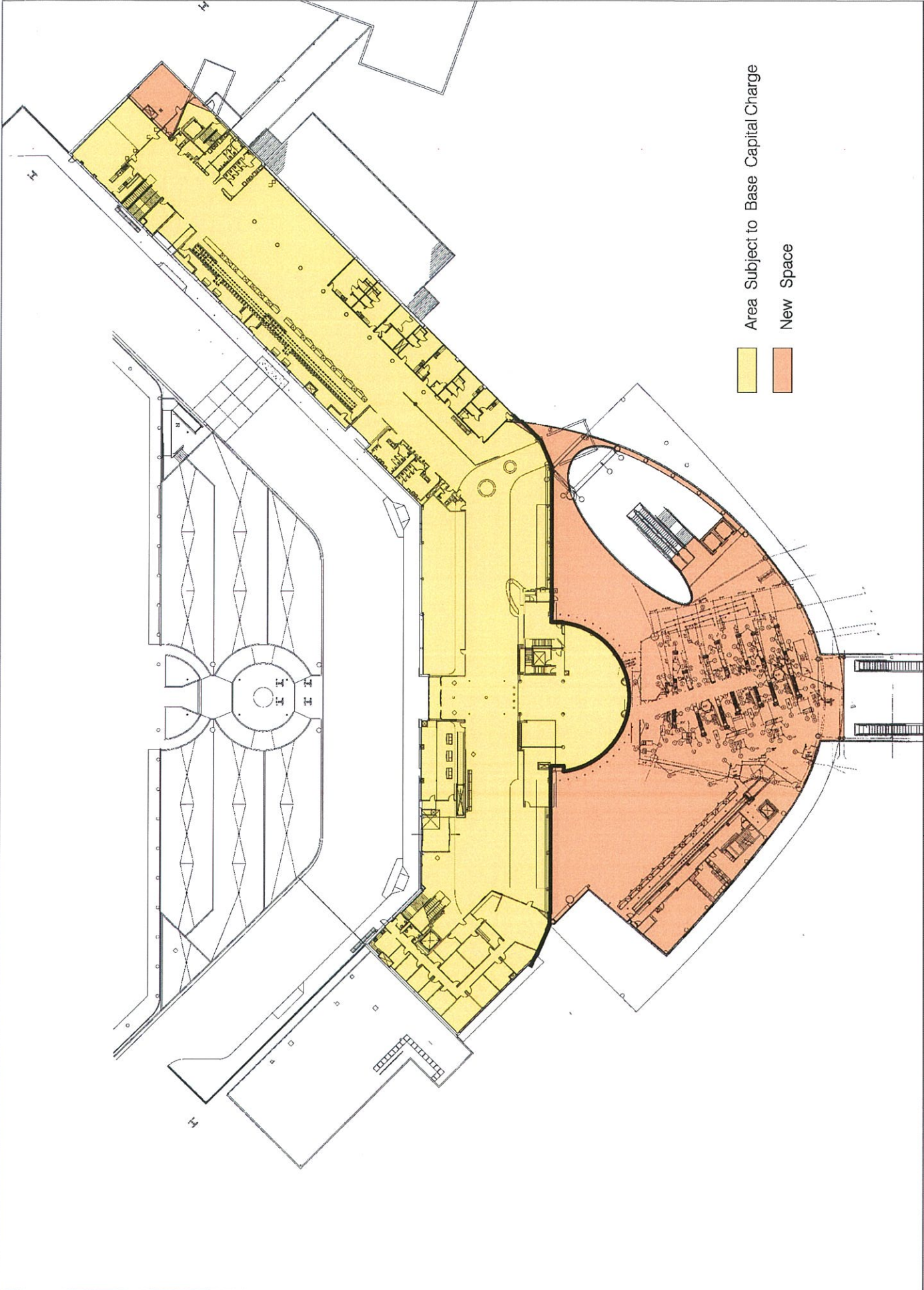
EXHIBIT J

Area Subject to Base Capital Charge

3 Pages



Area Subject to Base Capital Charge
 New Space



Area Subject to Base Capital Charge
 New Space

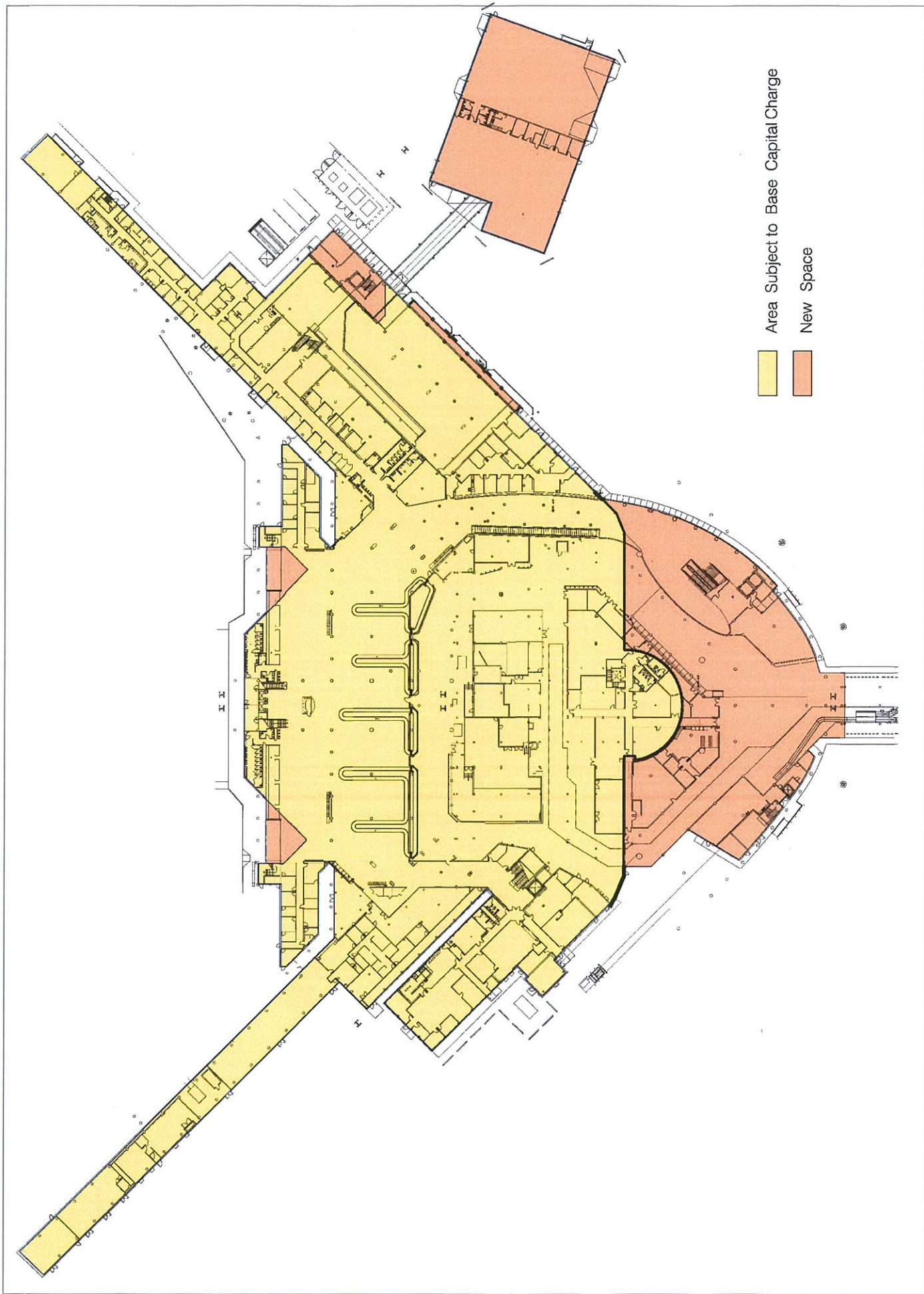


EXHIBIT K

Shared Use Holdroom Area Allocation
(East End Central Concourse)

1 Page

**Shared Use Holdroom Area
Allocation
(East End Central Concourse)
Exhibit K**

Standard Design Specifications:

Aircraft Class Groups	Typical Aircraft Type	Typical Aircraft Seats	Holdroom					
			Seating		Podium		Exit	Total
			Pax 1/	Area (SF) 2/	Positions	Area (SF) 3/	Area (SF)	Area (SF)
Std RJ	EMB170	70	45	672	2	690	180	1542
Std NB	B739W	160	102	1536	2	690	180	2406
Std B757	B757	185	118	1776	2	690	180	2646

1/ 80% LF and 80% in Holdroom

2/ 15 SF per seat

3/ 3 feet per position plus 5 foot clearance on each side plus a 7 foot exit aisle; 30 foot depth assumed.

Allocation Based on Actual Design:

Gate Number	Aircraft Type	Design Standar	% of Total		Actual Design	Allocation Per Actual
Gate 28	Std RJ	1542	14%	x	10416	1408
Gate 29	Std NB	2406	21%	x	10416	2197
Gate 30	Std NB	2406	21%	x	10416	2197
Gate 31	Std NB	2406	21%	x	10416	2197
Gate 32	Std B757	2646	23%	x	10416	2416
		11406				10416

EXHIBIT L

Illustrative Calculation of Inside Incremental
Concession Revenue Credit

1 Page

Exhibit L
Illustrative Calculation of Inside Incremental Concession Revenue Credit

		Baseline					
		FY0000	FY0001	FY0002	FY0003	FY0004	FY0005
HOU Total Enplanements	A	4,343,757	4,562,171	4,158,923	4,397,073	4,739,183	5,128,109
Step 1: Enplanement Growth from Baseline	B		218,414	(184,834)	53,316	395,426	784,352
Concession Revenue	C	\$4,740,442	\$5,736,257	\$5,702,893	\$5,765,018	\$6,720,706	\$7,786,481
Step 2: Concession Revenue/Enplanement	C/A=D	\$1.0913	\$1.2574	\$1.3712	\$1.3111	\$1.4181	\$1.5184
REVENUE SHARE CALCULATION							
Step 3: Total Concession Revenue to Share	BxD=E		\$274,623	\$0	\$69,903	\$560,760	\$1,190,954
LONG TERM SIGNATORY AIRLINE MARKET SHARE							
Long Term Signatory Airline 1 Enplanements	F		146,361	141,068	151,926	166,105	200,128
Long Term Signatory Airline 2 Enplanements	G		4,052,583	3,659,381	3,865,785	4,126,133	4,433,624
	F+G=H		4,198,944	3,800,449	4,017,711	4,292,238	4,633,752
Long Term Signatory Airline 1	F/H=I		3.49%	3.71%	3.78%	3.87%	4.32%
Long Term Signatory Airline 2	G/H=J		96.51%	96.29%	96.22%	96.13%	95.68%
			100.00%	100.00%	100.00%	100.00%	100.00%
STEP 4: ALLOCATE TO LONG TERM SIGNATORY AIRLINES							
Long Term Signatory Airline 1	ExI=K		\$9,572	\$0	\$2,643	\$21,701	\$51,436
Long Term Signatory Airline 2	ExJ=L		\$265,051	\$0	\$67,259	\$539,059	\$1,139,518
	K+L=E		\$274,623	\$0	\$69,903	\$560,760	\$1,190,954

ATTACHMENT V

(Draft Airport Use and Lease Agreement for Other Airlines at HOU Effective July 1, 2015)

Modified Southwest's Agreement for Other Airlines

DRAFT
08/30/13

AIRPORT USE AND LEASE AGREEMENT

by and between

CITY OF HOUSTON

and

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AIRPORT USE AND LEASE AGREEMENT

THE STATE OF TEXAS §

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF HARRIS §

THAT, this **AIRPORT USE AND LEASE AGREEMENT** ("Agreement") is made and entered into on the date of countersignature by the City Controller ("Execution Date") by and between the **CITY OF HOUSTON, TEXAS**, a municipal corporation and home-rule city principally situated in Harris County (hereinafter defined and referred to as "City") and **SOUTHWEST AIRLINES, CO.**, a corporation doing business in the State of Texas (hereinafter defined and referred to as "~~Southwest~~" or "Airline"), (the "Parties").

WITNESSETH:

WHEREAS, City is the owner of the William P. Hobby Airport (hereinafter defined and referred to as "Airport" and more completely identified in Exhibit A attached hereto and made a part hereof), which is located in the City of Houston, Harris County, Texas; and

WHEREAS, Airline is engaged in the business of commercial air transportation of persons, property, cargo, and mail as a scheduled air carrier and is certificated or otherwise authorized by the United States Government to engage in such business; and

WHEREAS, Airline has requested City grant it certain rights, privileges and services in connection with the use of said Airport and its facilities in the conduct of Airline's business as a scheduled air carrier; and

WHEREAS, City is willing to grant Airline such rights, privileges and services upon the terms and conditions and for the consideration hereinafter stated; and

WHEREAS, the City and Southwest agreed that there is a significant need for development of additional facilities at the Airport to handle aircraft, passengers, departing to, and arriving from, international destinations on scheduled and chartered flights and, to that end, the City and Southwest have executed a Memorandum of Agreement dated June 5, 2012 (the "MOA") to implement a plan and on February 25, 2013, entered into a Long Term Airport Use & Lease Agreement, as that term is defined herein, for Southwest to construct the development of such a facility broadly defined as the William P. Hobby Airport International Expansion Project ("Project"), as is further defined herein; and

WHEREAS, airlines serving the Airport ~~were~~will be provided an opportunity to enter into either a Long Term Airport Use & Lease Agreement or a Short Term Airport Use & Lease Agreement, as of July 1, 2015~~the Effective Date, as defined herein~~; and

WHEREAS, ~~City and~~ Airline hereby desires to enter into a _____ (select either Long Term or Short Term) Airport Use & Lease Agreement and deems it desirable necessary to enter into a written agreement with the City setting forth the respective rights,

privileges, obligations and duties of the parties hereto and defining the rights, services and privileges granted and the terms, conditions and consideration on which they are granted;

NOW, THEREFORE, for and in consideration of the Leased Premises and the mutual covenants herein contained and the rentals, charges and fees to be paid by Airline, it is agreed and understood by and between the City and Airline as follows:

Article I

DEFINITIONS

The following words and phrases, wherever used in this Agreement, shall, for the purpose of this Agreement, have the following meanings:

1. "**Affiliate**" means any scheduled air carrier that (a) is a parent or subsidiary of Airline; or (b) otherwise operates under essentially the same trade name as Airline at the Airport, and uses essentially the same livery as Airline.

2. "**Agreement**" means this Airport Use and Lease Agreement.

3. "**Airline**" means the entity that has executed this Agreement and that is identified in the first paragraph of this Agreement.

4. "**Southwest**" means Southwest Airlines Co., a corporation doing business in the State of Texas, or its successor organization.

5. "**Airport**" means William P. Hobby Airport, Houston, Texas, as generally depicted in Exhibit A, Airport Layout Plan, attached hereto and made a part hereof, as it now exists or may be modified or expanded from time to time in the future.

6. "**Airport Cost Centers**" means the direct cost areas to be used in accounting for Airport costs for the purposes of calculating rates and charges hereunder, as such areas now exist or may hereafter be modified, renovated or expanded, subject to provisions of Article VII, and as more particularly described below:

A. "**Central Terminal/Central Concourse**" means that portion of the Terminal Complex as depicted in Exhibit B.

B. "**Central Concourse Apron Area**" means that portion of the Terminal Apron Area as depicted in Exhibit B.

C. "**International Facility**" means, collectively, the facilities and areas in the sub-cost centers described in paragraphs (i) and (ii) immediately below:

(i) "**West Terminal/West Concourse and West Concourse Apron Area**" means, for the West Terminal/West Concourse, that portion of the Terminal Complex as

depicted in Exhibit B, and for the West Concourse Apron Area, that portion of the Terminal Apron Area as depicted in Exhibit B.

(ii) **"Federal Inspection Services Facility or "FIS""** means that portion of the Terminal Complex, together with the sterile corridors as depicted in Exhibit B; together with all necessary space and equipment required by the Department of Homeland Security, Customs and Border Protection and related regulating agencies.

D. "Airfield" means the runways, taxiways, taxilanes, and apron areas (other than the Terminal Apron Area and other leased apron areas), navigational aids, hazard designation and warning devices, airfield security roads and fencing, blast fencing, lighting, clear zones and safety areas for landing, taking off and taxiing of aircraft, aviation easements, land utilized in connection therewith or acquired for such purpose, and facilities, the acquisition, construction or installation cost of which is wholly or partially paid by City.

E. "Other Buildings and Areas" means the other buildings and ground areas of the Airport leased or available for lease to other Airport tenants and users.

F. "Parking and Ground Transportation Areas" means the public automobile parking structure and surface parking lots accommodating public automobile parking and ground transportation vehicle staging.

G. "Terminal Roadways" means the loop terminal roadway system (as it exists now or as may be modified in the future) within the Airport bounds and serving the Terminal Complex and Parking and Ground Transportation Area.

7. "Airport System" means all airport, heliport and aviation facilities, or any interest therein, now or from time to time hereafter owned, operated or controlled in whole or in part by the City, together with all properties, facilities and services thereof, and all additions, extensions, replacements and improvements thereto, and all services provided or to be provided by the City in connection therewith. The Airport System currently includes "George Bush Intercontinental Airport/Houston," "William P. Hobby Airport," and "Ellington Airport."

8. "Airport Use and Lease Agreement" means either a Long Term Airport Use and Lease Agreement or a Short Term Airport Use and Lease Agreement.

9. "Amortization" means the level annual charge required to recover the net cost of a Capital Improvement over the Useful Life of the Capital Improvement at the City's Cost of Capital.

10. "Base Capital Charge" means the fixed annual charge per square foot to be charged for certain areas which have not been identified to be demolished or replaced, the original cost of which has been fully amortized as identified in Exhibit J.

11. **"Bond Ordinances"** means any and all ordinances adopted by the City which authorize debt secured by net revenues of HAS, (whether senior lien, subordinate lien, or inferior lien), specifically including, but not limited to, Ordinance No. 2012-100.

12. **"Capital Improvement"** means any improvement or asset, or series of related improvements or assets, acquired or constructed by City at the Airport, including without limitation any security facilities or equipment, which has a net cost of \$205,000 or more (adjusted annually for changes in the Consumer Price Index from July 1, 2012 to a maximum of \$600,000) and a Useful Life of more than one year. For the purposes of this Agreement, the net cost of each Capital Improvement shall be the total cost (including actual construction costs; architectural and engineering fees, program management fees, testing and inspection fees, construction management fees, permit fees, and other direct or allocable fees; interest during construction; and allocable out-of-pocket financing costs) less any grants-in-aid, Passenger Facility Charge ("PFC") or similar sources used in financing the Capital Improvement.

13. **"City"** means the City of Houston, Texas, or such other agency, board, authority, or private entity which may succeed to the jurisdiction of City over the Airport.

14. **"Common Use"** means the right granted to an airline, in common with others, for the use of designated space at the Airport.

15. **"Cost of Capital"** means (a) for Capital Improvements financed with Airport System Revenue Bonds, the effective interest rate on the Bonds used to finance the particular Capital Improvement and (b) for Capital Improvements financed with other Airport or Airline funds, the current Revenue Bond Index (of 22-year+, "A" rated bonds) published daily in the Wall Street Journal (or successor publication thereto), for the end of the latest month preceding the calculation of the rates and charges, but no later than June 30, of the Fiscal Year the Capital Improvement is placed in service.

16. **"CPI"** means the Consumer Price Index for All Urban Consumers in the metropolitan statistical area that is inclusive of the City, currently known as Houston-Galveston-Brazoria published by the U.S. Department of Labor, Bureau of Labor Statistics (or such comparable index, should the U.S. Department of Labor cease to publish that index).

17. **"Date of Beneficial Occupancy" or "DBO"** means the first day of the month following the date(s) on which both of the following has occurred: (1) the Director has certified that the Project is substantially complete and ready for public occupancy and use, and (2) the City has issued a certificate of occupancy for the Project. Issuance by the City of a certificate of occupancy or temporary certificate of occupancy for only a portion of the Project shall not constitute the DBO.

18. **"Deplaned Passenger(s)"** means any passenger, excluding non-revenue passengers (i.e. passengers who are non-revenue passengers in accordance with 14 C.F.R. 217.1, as defined on the Execution Date), disembarking an Airline aircraft at the Airport, including any passenger that subsequently boards another Airline aircraft. A Deplaned Passenger is either a Domestic Deplaned Passenger or an International Deplaned Passenger.

19. "**Director**" means the Director of the Houston Airport System, or his or her designee, or such other officer to whom the duties and authority of the Director may be assigned by the City Council of City or by any agency, board or authority which may subsequently succeed to the jurisdiction of City over the Airport.

20. "**Domestic Enplaned Passenger**" means any Enplaned Passenger whose destination is within the United States or its territories.

21. "**Effective Date**" is the later of the Execution Date or July 1, 2015. For purposes of construction of the Project, Article VII shall become effective on the Execution Date.

22. "**Enplaned Passenger**" means any passenger boarding an airline aircraft at the Airport.

23. "**Environmental Laws**" has the meaning set forth in Section 14.02.C.1 herein.

24. "**Exclusive Use Space**" means those areas used solely by Airline, to the exclusion of others, as shown in Exhibit C, which may include ticket offices, operation support rooms, club rooms and other sole-use operation areas.

25. "**Execution Date**" has the meaning set forth in the first paragraph of this Agreement.

26. "**Expiration Date**" is June 30, 2040 for a Long Term Airport Use & Lease Agreement or it is _____ if a Short Term Airport Use & Lease Agreement.

27. "**Fiscal Year**" refers to City's fiscal year and means the twelve-month period commencing July 1 and extending through June 30 of the following calendar year, or such other fiscal year as City Council may establish by ordinance.

28. "**Gate**" means the passenger holdroom, passenger loading bridge and associated aircraft parking position.

29. "**Ground Handling Services**" means any of the following: on and off loading of passengers (including ticketing), baggage, mail or cargo; into-plane fueling; in-flight catering; servicing aircraft lavatories; providing ground power, potable water and preconditioned air; cleaning the interior of aircraft; and any other similar ground services.

30. "**Hazardous Materials**" shall be interpreted in the broadest sense to include any and all substances, materials, wastes, pollutants, oils, or governmental regulated substances or contaminants as defined or designated as hazardous, toxic, radioactive, dangerous, or any other similar term in or under any of the Environmental Laws, including but not limited to, asbestos and asbestos containing materials, petroleum products including crude oil or any fraction thereof, gasoline, aviation fuel, jet fuel, diesel fuel, lubricating oils and solvents, urea formaldehyde, flammable explosives, PCBs, radioactive materials or waste, or any other substance that, because of its quantity, concentration, physical, chemical, or infectious characteristics may cause or threaten a present or potential hazard to human health or the environment or which may impair

the beneficial use of property for Airport purposes. Hazardous Materials shall also mean any and all hazardous materials, hazardous wastes, toxic or hazardous substances, or substances regulated under any Environmental Laws set forth in Section 14.02.C.1. hereof.

31. **"Houston Airport System" or "HAS"** means the organizational entity of the City which has responsibility for the operation and administration of the City's airport system.

32. **"Inside Concession Revenue"** means concession revenue that HAS actually receives from all inside concessions (defined as food, beverage, news, gifts, other retail, duty-free merchandise, telephones, advertising and other miscellaneous concessions) throughout the Terminal Complex, and shall not include outside concessions such as parking, rental cars and ground transportation.

33. **"International Deplaned Passenger"** means a Deplaned Passenger whose origin is outside the United States or its territories.

34. **"Joint Use Space"** means the space assigned to airlines in Exhibit C that must be shared by them collectively for the conduct of their air transportation business.

35. **"Leased Premises"** means all space leased by Airline as depicted in Exhibit C.

36. **"Long Term Signatory Airline"** means a Signatory Airline that executes a Long Term Airport Use and Lease Agreement with the City.

37. **"Long Term Airport Use and Lease Agreement"** means an Airport Use and Lease Agreement which expires on the Expiration Date, provided that such agreement has a minimum term of ten (10) years.

38. **"Mayor"** means the Mayor of the City of Houston or such other officer to whom the duties and authority of the Mayor may be assigned by the Charter of the City of Houston or by an act of the Legislature of the State of Texas or by any agency, board, or authority which may succeed to the jurisdiction of City over the Airport.

39. **"MOA"** has the meaning set forth in the Recitals herein.

40. **"Non-Signatory Airline"** means an airline that has not executed an Airport Use and Lease Agreement with the City.

41. **"Operation and Maintenance Expenses" or "O&M Expenses"** means all reasonable and necessary current expenses of City, paid or accrued, of operating, maintaining, repairing, and administering the Airport; including, without necessarily limiting thereto, salaries and wages, fringe benefits, contractual services, utilities, systems, professional services, police protection services, fire protection services, administrative expenses, the cost of materials and supplies used for current operations, equipment, insurance premiums, the reasonable charges of any paying agents and any other depository bank pertaining to the Airport, as well as overhead expenses of (a) the Houston Airport System (which shall be fairly allocated among City's airport

facilities in accordance with generally accepted accounting practices) and (b) other City departments whose services are directly related or reasonably allocable to the administration of the Airport (which shall be determined in accordance with a City-wide administrative cost allocation plan then in effect); provided, however, Operation and Maintenance Expenses shall not include any allowance for depreciation, payments in lieu of taxes, Capital Improvements, or any charges for the accumulation of reserves for capital replacements.

42. **"Preferential Use"** means the scheduling rights granted a Signatory Airline for the use of space at the Airport in advance of all other airlines and in accordance with Article IV.

43. **"Preferential Use Space"** means the locations shown in Exhibit C which are leased to Airline on a Preferential Use basis.

44. **"Project" or "William P. Hobby Airport International Expansion Project"** means, collectively: (a) the development of five new international gates capable of handling narrow-body transport category aircraft (e.g., Boeing 737 series and Airbus 320 series); (b) the development of an FIS; (c) the development of associated ramp and extended hydrant fueling system improvements, apron work and drainage; (d) related security checkpoint enhancements; (e) all associated enabling projects including, but not limited to, the central utility plant, the Airline ticket counter and office relocation, and the HAS office relocation; (f) all related and applicable costs, fees and taxes, including without limitation, planning, legal, construction management, construction, materials, project management fees, and permit fees; (g) reimbursement to the City of the third party consultant costs for developing a Project Definition Manual, as defined in the MOA; and (h) reimbursement to the City of the third party consultant costs for the City liaison associated with construction of the Project.

45. **"Renewal and Replacement Fund"** means the Airport System Renewal and Replacement Fund established by the City's Airport System Revenue Bond ordinances.

46. **"Requesting Airline"** means an airline that requests to provide new or additional service at the Airport.

47. **"Security Screening Space"** means the space used for the screening of passengers (security screening checkpoints) and baggage (explosives detection screening space) in the Terminal Complex, as shown in Exhibit C that must be shared by the airlines collectively for the conduct of their air transportation business.

48. **"Short Term Airport Use and Lease Agreement"** means an Airport Use and Lease Agreement with a term of (5) years or the duration of the term, whichever is less. Such agreement shall automatically extend for additional five-year terms in the absence of receipt of written notice of cancellation by the Airline, to the other Party at least ninety (90) days prior to the expiration of the then existing term, but in no event beyond the Expiration Date.

49. **"Short Term Signatory Airline"** means a Signatory Airline that executes a Short Term Airport Use and Lease Agreement with the City.

50. "**Signatory Airline**" means an airline that leases at least one holdroom in the Central Concourse, four ticket counter positions and five hundred (500) square feet of operations space or the financial equivalent at the Airport, and executes an Airport Use and Lease Agreement with the City.

51. "**Southwest's Investment in the Project**" means Southwest's total costs spent on the Project, less any credit Southwest receives pursuant to Section 6.19, less the costs associated with the hydrant fueling system related to the Project and less any grant funds received related to the Project. Southwest shall certify to the Director the total costs spent on the Project and provide supporting documentation, pursuant to Section 7.01. For purposes of calculating rentals and fees as provided in Article VI, this amount shall become zero on the effective date that the City exercises a buyout of the Project pursuant to Section 7.04.

52. "**Terminal Apron Area**" means, collectively, the Central Concourse Apron Area and the West Concourse Apron Area.

53. "**Terminal Complex**" means, collectively, the Central Terminal/Central Concourse, the West Terminal/West Concourse and the FIS.

54. "**Turn**" means a combination of one arrival and one departure. An arrival and departure with an aircraft with fewer than one hundred (100) seats will be counted as one-half a Turn.

55. "**Usable Space**" means the gross square footage of a sub-cost center within the Terminal Complex less the square footage of mechanical, electrical, and other service and support space in the sub-cost center.

56. "**Useful Life**" means the period of time that a Capital Investment is to be recovered through the Amortization process. In general, a Useful Life will be assigned to each Capital Improvement by the Director based on generally accepted airport accounting practices. For purposes of calculating rates and fees under this Agreement, improvements will be assigned the following Useful Life: (a) new facilities and reconstruction of the Terminal Complex (except passenger loading bridges, baggage claim and outbound baggage equipment) - 25 years, (b) renovations to facilities - 20 years, (c) new passenger loading bridges, baggage claim, and outbound baggage equipment - 15 years.

Article II

RIGHTS AND PRIVILEGES

Section 2.01. **Use of Airport**

As long as it does so in accordance with the terms and provisions hereof, Airline, in common with all other scheduled airlines using the Airport, may utilize the Airport (other than the exclusive space of other tenants) and its facilities for the purpose of conducting Airline's business of a scheduled air carrier certificated or otherwise authorized by the United States Government to engage in the business of commercial air transportation of persons, property,

cargo, and mail (hereinafter sometimes referred to as "air transportation business"). The privileges granted hereby include the following:

A. The use of landing field areas, aprons, roadways, runways, taxiways, runway and taxiway lights, beacons, facilities, equipment, improvements, services and other conveniences for flying, landing, taxiing and takeoffs of aircraft.

B. The landing, taking-off, flying, taxiing, towing, loading and unloading of aircraft and other equipment used by Airline in its operation of its air transportation business.

C. The repairing, maintaining, conditioning, servicing (to include exterior aircraft cleaning), testing, including engine "run-ups", and emergency maintenance of aircraft engines and systems subject to Section 2.03F hereof, loading, unloading, parking and staging of aircraft or other equipment of Airline in areas on the Airport designated by the Director for such purposes.

D. The training of personnel employed by or to be employed by Airline including employees of Airline's contract service providers.

E. The installation, maintenance and operation, at Airline's expense, by Airline alone, or in conjunction with any other airline or airlines who are lessees at the Airport or through a nominee, of radio, telephone, and data communications equipment and meteorological and aerial navigation equipment and facilities in or on the Leased Premises for use by Airline in the conduct of its air transportation business; provided, however, that any installations shall be subject to the prior written approval of the Director and whether interior or exterior, shall not interfere with the Airport navigation aids or with similar rights granted to other tenants or governmental agencies. In the event of such interference, the Director may require removal, relocation, or modification to eliminate such interference.

F. The selling, exchanging or disposing of gasoline, oil, grease, lubricants, fuels, or propellants for use by Airline in connection with the conduct of its air transportation business (in compliance with existing laws and any applicable agreement therefor).

G. The purchasing or otherwise obtaining of services or personal property of any nature including aircraft, engines, accessories, gasoline, oil, greases, lubricants, fuels, propellants, food, beverages, and other equipment, parts or supplies necessary to Airline in the conduct of its air transportation business and in the exercise of its rights and privileges herein granted and in the discharge of the obligations herein imposed upon Airline.

H. The installing, maintaining and operation by the Airline or its nominee of vending machines in Airline's Exclusive Use Space not accessible to the public for the purpose of providing and making available foods, beverages and sundry food items to Airline's employees only.

I. The installing, maintaining, and operation, without cost to City, by Airline alone or in conjunction with any other Signatory Airline at the Airport, of communication systems

between suitable locations in the Terminal Complex, subject to the approval of the Director as to location of the installation of said system.

J. The transporting, directly or through a nominee of Airline's choice, of Airline's employees, passengers, cargo, property (including baggage) and mail to, from and at the Airport.

K. Subject to the prior written approval of the Director (which approval may be withheld at Director's sole discretion), the installation and maintenance at Airline's expense, on its Leased Premises, of identifying signs representing its business. Such signs shall be uniform in size, type and location as approved by the Director and shall be consistent with published Houston Airport System signage criteria.

L. The conduct of any other operation or activity that is necessary for or related to Airline's air transportation business, subject to the provisions of Section 2.02. hereof.

M. Ground Handling of Airline by Others. Airline may contract with, or receive from other airlines serving the Airport or other companies, Ground Handling Services for Airline's aircraft, provided that Airline provides advance written notice to the Director (or his designated representative) of such arrangements and uses reasonable efforts to ensure that such other airline or other company shall have entered into an operating permit or agreement or other similar contract with City prior to commencing Ground Handling Services with Airline.

N. Ground Handling of Others by Airline. Airline may provide Ground Handling Services to aircraft of other airlines using the Airport provided that Airline provides advance written notice to the Director (or his designated representative) of such arrangements and uses its best efforts to ensure that such other airline has entered into an operating permit or agreement or similar contract with City prior to conducting its operations at the Airport. Airline's insurance, as required in this Agreement, shall provide insurance coverage for such Ground Handling Services.

O. The rights granted to Airline herein may be exercised by Airline or by another party designated by Airline; however, as between City and Airline such other party shall be considered Airline's agent. It is specifically provided, however, that Airline shall not grant another airline the right to exercise any of the aforesaid rights on its behalf unless and until such other airline has executed an Airport Use and Lease Agreement with City.

P. The installation, maintenance and operation by Airline or its nominee on land leased from City for the purpose of a facility for the preparation and sale of meals for consumption aboard aircraft operated by Airline and its subsidiaries. The Leased Premises shall not be used for such purposes.

Q. Affiliates. A Signatory Airline must designate in writing to the City any scheduled air carrier that will be an Affiliate of that Signatory Airline at the Airport. A Signatory Airline must also designate in writing to the City to terminate such Affiliate status of such scheduled air carrier. Affiliates shall have the rights afforded Airline without payment of any additional charges or premiums, provided Airline: (a) remains a Signatory Airline to this

Agreement; and (b) agrees and shall be obligated to serve as a financial guarantor for all rentals, fees and charges incurred by any Affiliate of Airline at the Airport. Airline shall be responsible for any and all unpaid rentals, fees and charges of any such Affiliate while such Affiliate operates at the Airport.

Section 2.02. Rights Reserved by City

A. Except as otherwise provided herein, City reserves the exclusive right to itself, its agents and its franchisees, to operate all concession services (including, but not limited to, food/beverage and news/gift concessions, specialty retail shops and carts, vending machines, pay telephones, fax machines and other voice and data telecommunications systems, advertising displays, baggage lockers and baggage carts) in the Terminal Complex (including public use premises) and to retain the revenue therefrom; provided however, that City agrees that no concession services shall be located or operated by City or its nominees in any non-public use Exclusive Use Space and Preferential Use Space without Airline's prior consent and providing that City shall not exercise such right in a manner that will materially impede passenger ingress or egress or Airline's business operations.

B. City shall operate all concessions and provide such other services (with reasonable due consideration to requests made by Airline) for scheduled airline passenger operations at the Airport as it deems necessary or appropriate. Nothing herein shall limit or preclude City from operating whatever concessions or providing whatever services it may desire at any and all airports and other facilities owned by City.

Section 2.03. Limitations of Use of Airport

A. Use of Facilities. Airline shall not knowingly permit any act or omission at or about the Airport that may interfere with the effectiveness or accessibility of the drainage and sewage system, electrical system, heating and air conditioning system, fire protection system, sprinkler system, alarm system, fire hydrants and hoses, and security systems, if any, installed or located on or within the Leased Premises or the Airport.

B. Use of Gates. Gates shall not be subdivided (i.e., a Gate may not be used to accommodate more than one aircraft simultaneously at any time, and no hardstand operations, shall be permitted). Gates shall only be used for the enplanement and deplanement of passengers, and loading and unloading of belly cargo on passenger aircraft.

C. Insurance Requirements Compliance. Airline shall not knowingly permit any act upon the Airport that will invalidate or conflict with any fire or other casualty insurance policies (copies of which, together with premium schedules, shall be furnished to Airline on request) covering the Airport or any part thereof.

D. Waste Disposal. Airline shall not dispose of or knowingly permit disposal of any waste material taken from or products used (whether liquid or solid) with respect to its aircraft into the sanitary or storm sewers at the Airport unless such waste material or products shall first be properly treated by equipment installed for that purpose or otherwise disposed of pursuant to

law. In addition to obtaining approval from the governmental agencies regulating equipment and disposal described in this paragraph, Airline shall also obtain the approval of the Director. All such disposal shall comply with regulations of the United States Department of Agriculture and the Environmental Protection Agency and shall be in compliance with Section 14.02 of this Agreement.

E. Flammable Liquids. Airline shall not keep or store, during any 24-hour period, flammable liquids within the enclosed portion of the Leased Premises in excess of Airline's working requirements during said 24-hour period, except in storage facilities especially constructed for such purposes in accordance with standards established by the National Board of Fire Underwriters and approved by a governmental agency with authority to inspect such facilities for safety compliance. Any such liquids having a flash point of less than 100°F shall be kept and stored in safety containers of a type approved by the Underwriters Laboratories.

F. Engine Run-ups. Airline shall perform aircraft engine run-ups only at locations and during time periods approved in writing in advance by the Director.

G. Hydrant Fueling System. Unless otherwise approved by the Director, Airline shall use the hydrant fueling system to fuel its aircraft if available for use.

H. Other. Except as otherwise expressly provided herein, Airline's use of the Airport shall be limited to activities directly connected to the transportation of passengers, persons, property, cargo and mail by air, and Airline shall not enter into activities which compete with City in City's development of any revenue from Airport passengers, tenants, and other users.

Section 2.04. Public Areas in Terminal Complex

Airline, its employees, passengers, guests, patrons and invitees, shall have ingress and egress to and the privilege to use, in common with the public, the public areas in the Terminal Complex in accordance with the terms and provisions hereof.

Section 2.05. Parking

A. In the event City develops or causes to be developed an area or areas at the Airport as common parking facilities for the employees of Airline and other Airport tenants, the Director, in consultation with the Airline, will determine a reasonable charge for the use of such facilities to cover return on capital investment and costs associated with their development, operation, supervision and maintenance. Public vehicular parking facilities will be provided by City at reasonable charges to be determined by City.

B. Only employees of Airline may park on such employee parking facilities.

Section 2.06. Ingress and Egress

Subject to the other provisions hereof and to the rules and regulations adopted by City under the provisions of Article XIV hereof, the following privileges of ingress and egress with respect to the Airport are hereby granted:

A. For Airline, its agents, employees, contractors, subcontractors and permitted sub-lessees and assigns: To the public areas of the Airport and to those areas and facilities designated herein for use by Airline. This right shall extend to Airline's aircraft, vehicles, machinery and equipment used in its air transportation business.

B. For Airline's passengers, guests and invitees: To areas leased to Airline and to areas provided for use of Airline's passengers, guests and invitees and to public areas and public facilities. This privilege shall extend to vehicles of such passengers, guests and invitees.

C. For Airline's suppliers of materials and furnishers of service: To the public areas of the Airport and to areas and facilities leased to Airline and to areas and facilities provided for the use by Airline or its suppliers of materials and furnishers of services. This privilege shall extend to vehicles, machinery or equipment of such suppliers and furnishers used in their business of furnishing such supplies and services to Airline.

D. The ingress and egress provided for above shall not be used, enjoyed or extended to any person, airline or vehicle engaging in any activity or performing any act or furnishing any service for or on behalf of Airline that Airline is not authorized to engage in or perform under the provisions hereof unless expressly authorized by the Director.

Section 2.07. Sales or Distribution of Food / Beverages

A. In-Flight Catering. Airline shall have the right to provide in-flight catering for its air passengers either with its own staff or by contract with others. In-flight catering companies serving Airline at the Airport shall enter into an operating agreement or the equivalent thereof with City prior to commencing in-flight catering services to Airline.

B. Distribution of In-Flight Food/Beverages. The distribution, serving or sale of food and/or beverages (including alcoholic beverages) by Airline or its in-flight catering company shall be limited to Airline's passengers who are in the passenger loading bridge or entrance to the passenger loading bridge and boarding Airline's aircraft. Airline will take reasonable actions to ensure that such food and/or beverages are consumed only on board the aircraft. The provisions of this section notwithstanding, all distribution of alcoholic beverages shall comply with applicable laws.

Distribution of food and/or beverages (at no cost to the public) by Airline in passenger holdrooms shall be permitted only with advance written approval of the Director. All such food and/or beverages, other than coffee, shall be purchased only from City's food and beverage concessionaires operating at the Airport, unless approved by the Director.

C. Club Rooms. Airline shall have the right to lease space in the Terminal Complex, if available, for the purpose of maintaining and operating club rooms for its guests,

invitees, and passengers and may serve beverages, including alcoholic beverages and appetizers therein with or without charge and subject to all applicable laws, regulations and ordinances; provided, however, that City reserves the right to charge Airline applicable percentages of its gross revenues from the sale of food and beverages consistent with the percentages charged to its food and beverage concessionaires at the Airport, provided that no such payment shall be required with respect to items obtained from concessionaires already obligated to make such payments to City with respect to such obtained items.

D. Other Distribution of Food/Beverages Prohibited. Except as allowed in Section 2.01.H and this Section 2.07, all other serving, distribution or sale of food or beverages by Airline at the Airport is prohibited.

Section 2.08. All Operations Required at Terminal Complex. The City shall require all scheduled passenger operations, excluding charter operations, to operate at the Terminal Complex.

Section 2.09. Preferential Lease of West Terminal/West Concourse Gates.

A. The City shall permit only Long Term Signatory Airlines to preferentially lease Gate(s) in the West Terminal/West Concourse. During each Fiscal Year, Long Term Signatory Airlines leasing Gate(s) in the West Terminal/West Concourse shall pay the greater of:

1. the total fees calculated in accordance with Section 6.04 hereof; or
2. the Central Concourse average Gate cost (using 2,600 square feet as the average holdroom size, plus passenger loading bridge, plus associated Central Concourse Apron Area) (collectively, the "Central Concourse Average Gate Cost") in any given Fiscal Year.

B. In any Fiscal Year that the Central Concourse Average Gate Cost is greater than a Long Term Signatory Airline's total fees calculated in accordance with Section 6.04 hereof, the difference between such amounts shall reduce the total requirement calculated in Section 6.04.

Article III

TERM

Section 3.01. Term

A. The term of this Agreement shall begin on the Effective Date and end ~~25 years later~~ on June 30, 2040 for a Long Term Airport Use and Lease Agreement or five years for a Short Term Airport Use and Lease Agreement, provided however, such five-year term shall not extend beyond June 30, 2040 (the "Expiration Date"); provided, however, that Article VII shall become effective on the Execution Date for Southwest. In no event shall the term, including any extensions of this Agreement, extend beyond the Expiration Date, unless the Director, in his reasonable discretion, extends this Agreement on a month-to-month basis upon thirty (30) days written notice to Airline.

B. If, for whatever reason, the Project is not completed, as evidenced by a certificate of occupancy for the entirety of the Project, by December 31, 2016, or as may be extended by the Director, but in no event beyond December 31, 2018, this Agreement shall be considered terminated and of no further force and effect. In such event, at the discretion of the Director, Southwest shall restore the site to its original condition before the start of any construction.

Section 3.02. Airline's Rights Upon Expiration or Early Termination of Agreement

Upon expiration or early termination of this Agreement, all of Airline's rights, authority, and privileges under this Agreement shall cease (except as specifically provided in Section 4.05B).

Section 3.03 MOA

The MOA shall remain in full force and effect from the Execution Date until DBO. On the DBO the MOA shall be deemed terminated and of no further effect.

**Article IV
LEASED PREMISES**

Section 4.01. Terminal Complex Leased Premises

A. Exclusive Use Space. Airline hereby leases from City and City hereby leases to Airline for its exclusive use the areas in the Terminal Complex, as shown in Exhibit C.

B. Preferential Use Space. Airline hereby leases from City and City hereby leases to Airline for its Preferential Use the areas in the Terminal Complex, as shown in Exhibit C.

Due to the physical constraints of the east end of the Central Concourse, the square footage of the Preferential Use Space listed as "Shared Use Holdroom Area" has been derived based on an allocation formula as shown in Exhibit K. Airline will be assigned Preferential Use of a specific gate(s) including the use of the associated gate podium(s), loading bridge(s) and aircraft parking position(s). However, the holdroom seating area serving such gate(s) will be shared by all of the airlines with assigned gates in this area.

C. Joint Use Space. Airline hereby leases from City, and City hereby leases to Airline for its use in common with other airlines the areas in the Terminal Complex, as shown in Exhibit C.

D. Security Screening Space. Airline hereby leases from City, and City hereby leases to Airline for its use in common with other airlines, the Security Screening Space in the Terminal Complex, as shown in Exhibit C.

Section 4.02. Terminal Apron Areas

A. Central Concourse Apron Area/West Concourse Apron Area. Airline hereby leases from City and City hereby leases to Airline for its preferential use the Central Concourse Apron Area and the West Concourse Apron Area, as shown in Exhibit C.

B. Parking of Airline's Aircraft. Airline shall have the right to locate aircraft within Airline's Central Concourse Apron Area and/or the West Concourse Apron Area for the purpose of loading and unloading passengers, baggage, cargo and mail; provided, however, that Airline shall not park aircraft in such a manner as would prohibit access, ingress, and egress to and from all aircraft parking positions by aircraft, ramp equipment, and traffic of other airlines or would prohibit the movement of aircraft and ramp equipment to and from the most convenient taxiway and the Terminal Complex.

Section 4.03. Gate Use, Accommodation and Relinquishment

A. Preferential Rights to the Use of Gates. Airline is granted the Preferential Use but not the exclusive use of its assigned Gate(s). Airline must submit its schedule on the first day of the month for the succeeding 90 days. ~~At those times that Airline has no scheduled use for one or more of its assigned Gate(s), Airline will allow other scheduled or nonscheduled airlines authorized by City to use Airport facilities to use such Gate(s), as circumstances and the public interest may require, for loading and unloading only, but in no event shall said use by others take precedence over Airline's scheduled use.~~ At those times that Airline has no scheduled use for one or more of its assigned Gates(s), City will allow other scheduled or nonscheduled airlines, authorized by City to use Airport facilities, to use such Gates(s) for loading and unloading only, but in no event shall said use by others take precedence over Airline's scheduled use. For the purposes of this subsection, the term "scheduled use" shall mean sixty (60) minutes before an aircraft is scheduled to arrive at a Gate and sixty (60) minutes after an aircraft is scheduled to depart from a Gate. When such use is to be made of Airline's Gate(s), City shall collect applicable use fees and reimburse Airline during the annual Fiscal Year reconciliation. Further, Airline may require such non-preferential airline user to enter into an agreement with Airline to provide adequate insurance and to indemnify Airline from liability in the use of the premises.

B. Gate Utilization and Relinquishment. Airline's right to its Preferential Use Gates shall be subject to an average Gate utilization requirement of four (4) Turns each day per Gate assigned to Airline. Affiliates shall be counted towards Airline's average Gate utilization requirement. If Airline fails to meet the average Gate utilization requirement set forth above during any given six-month period, Airline may be required to relinquish its right to one or more Gates, so that, thereafter, Airline will meet the average Gate utilization requirement with its remaining Preferential Use Gates. If Airline is required by City to relinquish any Gate(s) in accordance with this Section, such Gate(s) shall be deleted prospectively from Airline's Leased Premises and Airline's rent obligation with respect to such Gate(s) shall cease.

C. Accommodation of Requesting Airlines When Common Use Gates Are Not Available. Airline and City agree that if an airline requests to provide new or additional service at the Airport, and the City cannot provide such Requesting Airline with adequate facilities, the following procedures shall govern.

1. The City shall require that all requests for airline accommodation in the terminal facilities be received by the City.
2. If the City determines that Airline is under-utilizing its Leased Premises and is able to consolidate its operation without sacrificing its operational integrity (or that of its Affiliates), the City may, upon consultation with Airline and after sixty (60) days prior notice to Airline, recapture a portion of the Leased Premises and require Airline to consolidate its operations into its remaining Leased Premises.
3. For purposes of this Section, under-utilization shall be reasonably determined by the Director, taking into account the then-normal space utilization standard by all airlines at the Airport, Airline's space requirements to accommodate normal operating procedures of Airline, its Affiliates, planned use by Airline for such premises in the next one hundred eighty (180) days and normal seasonal variations, and any related labor agreement. The Director shall report his findings to Airline.
4. Through notice to the City, Airline may request the Director to reconsider his determination of under-utilization within thirty (30) days of receipt of the notice to consolidate. In such event, Airline shall provide documentation to show future plans for service and other information requested by the City. The City shall make a reasonable determination which it believes best meets its overall goals for the Airport.
5. If the City elects to proceed with the consolidation of space after such reconsideration, the City shall give Airline notice within ten (10) days of such decision.
6. If there is no Event of Default with respect to Airline, the City shall issue rent credits in an amount equal to pay all reasonable costs associated with the relocation of Airline's equipment, fixtures, furniture, and signage, and shall reimburse Airline via rent credits for the undepreciated value of the tenant's improvements that cannot be relocated pursuant to the provisions of this Section; provided, however, that in lieu of reimbursing the undepreciated value of Airline's tenant improvements, the City may replace such tenant improvements with like improvements in the consolidated space. If Airline is under an Event of Default, and has received proper notice from the City with respect thereto, Airline shall consolidate into its remaining Leased Premises at its sole cost and expense.

D. Use of West Concourse Gates.

1. International arrivals requiring FIS facilities shall at all times take precedence over domestic arrival and departure operations in the West Concourse Gates.
2. During the twenty-four (24) month period following DBO, Airline may satisfy its utilization requirement for the West Concourse Gates with either international or domestic operations. Following this twenty-four (24) month period, if a Requesting Airline requests to provide new or additional international arrivals at the Airport, and the City cannot provide such Requesting Airline with Common Use Gate space or other adequate facilities in the West

Concourse and Airline is using its Preferential Use Gates in the West Concourse for domestic operations, the City can require that Airline shift sufficient domestic operations from its Preferential Use Gates in the West Concourse to accommodate that Requesting Airline. The procedures set forth in this Section 4.03 shall apply.

Section 4.04. Interim Space

Airline acknowledges and agrees that at various times during the construction of the Project, Airline may be required to relocate to, and operate out of, space different from that shown in Exhibit C and as stated in Section 4.01 above. If Airline is required to temporarily relocate to and operate out of different space, Exhibit C will be modified in accordance with Section 14.22 hereof. At DBO of the Project, as it may affect Airline, Exhibit C will be further modified, also in accordance with Section 14.22 hereof.

Section 4.05. Surrender of Leased Premises

A. Upon expiration or early termination of this Agreement, Airline shall surrender the Leased Premises to City in as good condition as such Leased Premises were in at the time of the original occupancy by Airline, excepting, however, (1) reasonable wear and tear that could not be prevented through routine maintenance required to be done by Airline, (2) damage by fire and other casualty, and (3) acts of God or the public enemy.

B. Except as otherwise provided in this Section, all equipment, trade fixtures, and other personal property installed or placed by Airline in the Leased Premises or on or about the Airport and which can be removed without structural damage to the Leased Premises or any other City-owned property, shall remain the property of Airline unless otherwise provided in subsequent agreements between Airline and City, and Airline shall have the right at any time during the term of this Agreement and prior to its expiration or early termination to remove any and all of said property from the Airport provided Airline is not in default in its payments hereunder (beyond all applicable notice and opportunity to cure periods). Airline agrees to repair or pay for all damages, if any, resulting from such removal. All City property damaged by or as a result of the removal of Airline's property shall be restored at Airline's expense to the same condition as, or better condition than it was prior to such damage. Any and all property not removed by Airline after the expiration of this Agreement, or, if this Agreement ends by early termination, within sixty (60) days after receipt by Airline of a written notice from the Director to remove such property, shall thereupon become a part of the land upon which it is located and title thereto shall thereupon vest in City; and City reserves the right to remove such property not so removed by Airline, any removal by the City shall be at Airline's expense.

Section 4.06. Covenant Against Liens

Airline shall not cause nor permit any lien against the Leased Premises or any improvements thereto to arise out of or accrue from any action or use thereof by Airline; provided, however, that Airline may in good faith contest the validity of any alleged lien.

Section 4.07. City Right of Entry

With reasonable advance notice to Airline with the exception of exigent circumstances, City may enter upon Airline's Exclusive Use Space (1) at any time for any purpose necessary, incidental to or connected with the performance of Airline's obligations hereunder, or in the exercise of City's governmental functions, and (2) upon the termination or cancellation of this Agreement, and such entry or reentry shall not constitute a trespass nor give Airline a cause of action for damages against City.

Section 4.08. Quiet Enjoyment

Upon payment by Airline of the rentals, fees and charges as herein required and subject to performance and compliance by Airline of the covenants, conditions, and agreements on the part of Airline to be performed and complied with hereunder, Airline shall peaceably have and enjoy the rights, uses and privileges of the Airport, its appurtenances and facilities as granted herein.

Article V

RENTALS FEES AND REPORTS

Section 5.01. General

In consideration for the use of the Leased Premises, facilities, rights, and privileges granted hereunder and for the undertakings of City, Airline agrees to pay City, without set-off, the rentals and fees as set forth in this Article V and as calculated according to the procedures of Article VI hereof.

Section 5.02. Statistical Report

A. Airline shall submit in writing to the Director on or before the tenth (10th) day of each month the following statistical information relative to its scheduled, nonscheduled and charter operations at the Airport for the immediately preceding calendar month, in a format consistent with that provided in Exhibit G, attached hereto and by reference made a part hereof for all purposes:

1. Total number of domestic enplaned and deplaned passengers;
2. Total number of international enplaned and deplaned passengers;
3. Total number of domestic originating and connecting passengers;
4. Total number of international originating and connecting passengers;
5. Total number of landings by type of aircraft and maximum gross certificated landed weight;

6. Total pounds of domestic and international air cargo enplaned and deplaned; and
7. Total pounds of domestic and international air mail enplaned and deplaned.

The above statistical information shall be in addition to any other information elsewhere herein required to be submitted by the Airline each month for City's use in calculating landing fees and other charges pertinent to Airline's operations at the Airport.

B. Initially, Airline shall submit in writing to the Director on or before the ninetieth (90th) day following each reporting month the following statistical information by concourse relative to its scheduled, nonscheduled and charter operations at the Airport, in a format consistent with that provided in Exhibit G, attached hereto and by reference made a part hereof for all purposes, the statistical information listed in this Subsection B. Airline acknowledges that it shall make a good faith effort to begin reporting such information listed below on or before the tenth (10th) day of each month by July 1, 2015.

1. Total number of domestic enplaned and deplaned passengers;
2. Total number of international enplaned and deplaned passengers;
3. Total number of domestic originating and connecting passengers;
4. Total number of international originating and connecting passengers;
5. Total number of international enplaned and deplaned passengers by region (i.e. Mexico, Caribbean, and Latin America).

Section 5.03. Terminal Complex Rentals/Fees

Airline shall pay City for its Leased Premises monthly rent or fees based on the annual rental rates/fee schedules for the Terminal Complex calculated each Fiscal Year in accordance with Article VI.

Section 5.04 Central Terminal/Central Concourse Passenger Loading Bridges and Baggage Handling Systems

Airline shall pay City monthly for its preferential use of the City-owned passenger loading bridges and City-owned baggage handling systems in the Terminal Complex as an additional rental charge associated with Airline's Leased Premises if such passenger loading bridge and/or baggage handling system is installed in the Terminal Complex. Such charges shall be calculated each Fiscal Year in accordance with Article VI hereof.

Section 5.05. Terminal Apron Area Rentals

Airline shall pay City for the Central Concourse Apron Area monthly rent based on the annual apron fee rates calculated each Fiscal Year in accordance with Article VI hereof.

Section 5.06. Landing Fees

Airline shall pay City for its use of the Airfield monthly landing fees based on the annual landing fee rate calculated each Fiscal Year in accordance with Article VI hereof. City will use its best efforts to charge and collect landing fees from all commercial air transportation users of the Airfield as Director may reasonably determine. As determined by City, the fees payable by noncommercial air transportation users for the use of the Airfield may be based on some method other than aircraft landed weight.

Section 5.07. Other Fees, Charges and Credits

A. Utilities. With respect to its Leased Premises and Airline-installed equipment, machinery and facilities, Airline agrees to pay all water, sewage, electricity, gas and other utility charges which may be charged to Airline for the use thereof, if such charges are separately assessed or metered as appropriate to Airline. Utility bills for metered utilities furnished by the City will be paid monthly or less frequently depending on billing schedule established by the City. For those areas not separately metered, including exclusive, preferential, and common space, charges for utility services (other than illumination which is to be provided by City and included in the base rental rate) will be assessed by City on a proportionate basis related to area leased or number of fixtures served. Meters will be installed where it is economically and mechanically feasible.

B. Security Fines or Penalties. Any fines or penalties assessed against City because of Airline's noncompliance with 49 CFR Parts 1540 and 1542 shall promptly be reimbursed to City by Airline within thirty (30) days of receipt of written notice from the Director setting forth the amount of such fine or penalty; provided, however, that such payment shall not be construed as waiving Airline's right to contest such fine or penalty.

C. Other. City reserves the right to assess, and Airline agrees to pay reasonable charges for the use of City-provided facilities, equipment and services including but not limited to: telecommunication trunk equipment charges, employee parking facilities and issuance of security identification badges.

Section 5.08. Security Deposit

The amount of security deposit required by this section shall be three (3) times Airline's average monthly amount of rentals and fees payable under this Agreement unless Director, in his sole discretion, determines that Airline qualifies for relief from such requirement. At a minimum to qualify for such relief, (a) Airline must have provided regularly scheduled passenger flights to and from the Airport for the twelve (12) consecutive months prior to the Effective Date of the Agreement and must have made timely payments of all applicable rentals and fees or (b) Airline proves to the Director's satisfaction that it is not required to provide security deposit because

Airline has provided service to at least ten other airports in the United States for said twelve months and has not been delinquent in payment of rentals and fees to such airports.

In the event Airline, at any time during the Term of this Agreement, fails to make any of the payments required under this Article V when due, City reserves the continuing right to require a security deposit in an amount equal to three (3) times Airline's average monthly amount of rentals and fees payable under this Agreement, during the immediately preceding three-month period.

Such security deposit shall be provided to City by Airline, as a letter of credit or in such other form specified by the Director, within thirty (30) days of written demand therefor by Director and shall be held by City until Airline has made timely payment of all rentals and fees payable under this Agreement for a period of twelve (12) consecutive months at which time such security deposit shall be returned to Airline, subject to the continuing right to require a security deposit in the future for failure to make timely payments to the City.

Section 5.09. Payment Provisions

A. Central Terminal/Central Concourse Rentals and Central Concourse Apron Area Fees. Central Terminal/Concourse rentals (to include, as applicable, Passenger Loading Bridge Charges and/or the Baggage Handling System Charges), and Central Concourse Apron Area fees shall be due and payable on the first day of each month in advance without invoice from the City.

B. West Terminal/West Concourse, West Concourse Apron Area and FIS Fees. Following the DBO of the Project, fees for Airline's use of the West Terminal/West Concourse, West Concourse Apron Area and FIS shall be due and payable, without invoice from the City, on or before the tenth (10th) day following the last day of the preceding month and shall be transmitted to City together with Airline's monthly statistical report for the month as required in Section 5.02 hereof.

C. Landing Fees. Landing fees for each month shall be due and payable without invoice from the City on or before the tenth (10th) day following the last day of the preceding month and shall be transmitted to City together with Airline's monthly statistical report for the month as required in Section 5.02 hereof.

D. Other Fees. All other rentals, fees, and charges required hereunder shall be due and payable within thirty (30) days of the date of the invoice therefor.

E. Right of City to Verify Airline's Payment. The acceptance of any payment made by Airline shall not preclude City from verifying the accuracy of Airline's report and computations or from recovering any additional payment actually due from Airline or preclude Airline from later demonstrating that Airline's report was inaccurate and that a lesser amount was properly owed (and to recover any such overpayment).

F. Interest on Overdue Amounts. Any payment not received within five (5) business days of the due date may accrue interest at the rate of 1.5% per month from the due date until the date when full payment is made.

G. Form of Payment. Payments shall be made to the order of "Houston Airport System" and shall be sent to the Director's office or such other place as may be designated by the Director from time to time.

Section 5.10 Third-Party Service Providers

City may, at the sole discretion of the Director, impose fees on third-party service providers, contractors or suppliers accessing the Airport and charge a nominal fee of up to \$200 per month to offset City's administrative costs for executing such agreements.

Section 5.11 Premium for Non-Signatory Airlines

Non-Signatory Airlines will pay a premium of twenty-five percent (25%) on all rates, fees and charges. For the purpose of calculating annual rates, fees and charges, all premiums paid by Non-Signatory Airlines will be credited to reduce the requirement in each appropriate cost center, except as otherwise noted herein.

Section 5.12 No Other Fees and Charges

City agrees that it will not impose any rental, fee or charge, direct or indirect, on Airline for the exercise and enjoyment of the rights and privileges granted herein except those rentals, fees and charges provided for in this Agreement, and such other rentals, fees and charges as are mutually agreed upon by City and Airline; provided, however, there is excepted from this provision any and all fees and charges imposed, authorized or required by any rule, regulation or law of any governmental authority other than City. This provision is not intended to prevent City from making agreements concerning rentals, fees and charges with individuals or firms providing goods or services on the Airport who are tenants of City.

Article VI

CALCULATION OF RENTALS AND FEES

Section 6.01. General

For each Fiscal Year, rentals and fees will be reviewed and calculated based on the principles and procedures set forth in this Article. The methodology for the calculation of airline rentals and fees described in this Article VI is illustrated in Exhibit H. For rate-setting purposes, the calculations will be made on the basis of HAS estimates of costs and expenses and estimates of passengers and total landed weight and shall be provided to Airline at least thirty (30) days prior to the beginning of the Fiscal Year. For final settlement purposes, all calculations will be made on the basis of actual costs and expenses incurred and actual passengers and total landed weight and will be provided to Airline as soon as possible following the completion of the annual audit of the HAS's financial statements.

Section 6.02. Central Terminal/Central Concourse Rental Rates

The total requirement for Central Terminal/Central Concourse Airport Cost Center will be calculated by adding together the following amounts:

1. Direct and indirect Operation and Maintenance Expenses allocable to the Central Terminal/Central Concourse.
2. Amortization of the un-amortized net cost of each Capital Improvement in or allocable to the Central Terminal/Central Concourse as of June 30, 1998, over the remaining Useful Life of the Capital Improvement at the City's weighted Cost of Capital for all Capital Improvements as of that date.
3. Amortization of the net cost of each Capital Improvement placed in service in or allocable to the Central Terminal/Central Concourse on or after July 1, 1998.
4. Annual replenishment of the Renewal and Replacement Fund allocable to the Central Terminal/Central Concourse area, if necessary, as required by the City's Bond Ordinances.
5. Fifty percent (50%) of the annual O&M Expenses and total Amortization of the Terminal Roadways Airport Cost Center.

The annual rental rate for the Central Terminal/Central Concourse will be calculated by subtracting the Non-Signatory Airlines premiums collected within the Central Terminal/Central Concourse Airport Cost Center from the total of the items in Section 6.02(1) thru (5) above, then dividing the result by the total Usable Space in the Central Terminal/Central Concourse. The annual rent will be calculated by multiplying the Airline's total square footage of its Leased

Premises in the Central Terminal/Central Concourse by the annual rental rate calculated above for each Fiscal Year.

Additionally, a Base Capital Charge of \$2.50 per square foot will be added to the rental rate for Leased Premises within the space set forth in Exhibit J.

Section 6.03. Central Concourse Apron Area Rental Rates

The total requirement for the Central Concourse Apron Area Airport Cost Center will be calculated by adding together the following amounts:

1. Direct and indirect Operation and Maintenance Expenses allocable to the Central Concourse Apron Area.
2. Amortization of the un-amortized net cost of each Capital Improvement in or allocable to the Central Concourse Apron Area (including improvements associated with the fuel system) as of June 30, 1998, over the remaining useful life of the Capital Improvement at the City's weighted Cost of Capital for all Airport Capital Improvements as of that date.
3. Amortization of the net cost of each Capital Improvement placed in service in or allocable to the Central Concourse Apron Area on or after July 1, 1998.
4. Annual replenishment of the Renewal and Replacement Fund allocable to the Central Concourse Apron Area, if necessary, as required by the City's Bond Ordinances.

The annual Central Concourse Apron Area Fee Rate will then be calculated by subtracting the Non-Signatory Airline premiums collected within the Central Concourse Apron Area Airport Cost Center from the total of items in Section 6.03(1) thru (4) above, dividing the total costs allocable to the Central Concourse Apron Area by the total square footage of pavement designated as the Central Concourse Apron Area.

Section 6.04. West Terminal/West Concourse and West Concourse Apron Area Fees

The total requirement for the West Terminal/West Concourse and West Concourse Apron Area Airport Cost Center will be calculated by adding together the following amounts:

1. Direct and indirect Operation and Maintenance Expenses allocable to the West Terminal/West Concourse and West Concourse Apron Area.
2. Amortization of the net cost of each Capital Improvement placed in service in or allocable to the West Terminal/West Concourse and West

Concourse Apron Area on or after DBO.

3. Amortization of Southwest's Investment in the Project comprising the West Terminal/West Concourse and West Concourse Apron Area as of DBO, over a twenty-five (25) year period as defined in this Agreement.
4. Annual replenishment of the Renewal and Replacement Fund allocable to the West Terminal/West Concourse and West Concourse Apron Area, if necessary, as required by the City's Bond Ordinances.

A. West Terminal/West Concourse concession space. To calculate an annual cost for the concession space on the West Terminal/West Concourse the City will calculate a cost per square foot by dividing the sum of 6.04 (1), (2) and (4) above, less any costs included in 6.04 (1), (2) and (4) above associated with the West Concourse Apron by the total square footage of the West Terminal/West Concourse. Such square foot rate will then be multiplied by the concession space square footage in the West Terminal/West Concourse. The result is the City's annual cost of the West Terminal/West Concourse concession space.

B. West Terminal/West Concourse ticketing, ticket queuing and office space. If applicable, to calculate an annual cost for the ticketing, ticket queuing and office space on the West Terminal/West Concourse the City will calculate a cost per square foot by dividing the sum of 6.04 (1) thru (4) above, less any costs included in 6.04 (1) thru (4) above associated with the West Concourse Apron and the result of 6.04 (A) above by the total square footage of the West Terminal/West Concourse. Such square foot rate will then be multiplied by the ticketing, ticket queuing and office space square footage in the West Terminal/West Concourse. The result is the cost of the West Terminal/West Concourse ticketing, ticket queuing and office space. The annual rent will be calculated by multiplying the Airline's total square footage of its ticketing, ticket queuing and office space in the West Terminal/West Concourse by the annual rental rate calculated in this Section 6.04 (B) for each Fiscal Year.

C. The initial fees for the West Terminal/West Concourse and West Concourse Apron Area will be then be calculated by subtracting the Non-Signatory Airlines premiums collected within the West Terminal/West Concourse Airport Cost Center and the total results from 6.04 (A) and (B) above from the total of the items in Section 6.04 (1) thru (4) above and further subtracting applicable amounts collected under Section 2.09(B) and Section 6.18(B) (if any), then dividing the result by 750,000, which represents the base estimate of International Deplaned Passengers in the West Terminal/West Concourse in the initial Fiscal Year in which DBO occurs (pro-rated as applicable in such initial Fiscal Year). The resulting fee, multiplied by the actual number of International Deplaned Passengers in the West Terminal/West Concourse in any given month, shall be the amount payable to the City for the use of the West Terminal/West Concourse and West Concourse Apron Area for the previous month. International Deplaned Passengers in the West Terminal/West Concourse will be adjusted at the end of the Fiscal Year following DBO to reflect the actual International Deplaned Passengers in the West Terminal/West Concourse.

In each subsequent fiscal year, fees for the West Terminal/West Concourse and West

Concourse Apron Area will be then be calculated by subtracting the Non-Signatory Airlines premiums collected within the West Terminal/West Concourse Airport Cost Center and the total results from 6.04 (A) and (B) above from the total of the items in Section 6.04 (1) thru (4) above and further subtracting any amounts collected under Section 2.09(B) and Section 6.18(B) (if any), then dividing the result by International Deplaned Passengers in the West Terminal/West Concourse.

Section 6.05. FIS Fees

The total requirement for the FIS Airport Cost Center will be calculated by adding together the following amounts:

1. Direct and indirect Operation and Maintenance Expenses allocable to the FIS.
2. Amortization of the net cost of each Capital Improvement placed in service in or allocable to the FIS on or after DBO.
3. Amortization of Southwest's Investment in the Project comprising the FIS as of DBO (i.e., capital costs associated with the FIS), over a twenty-five (25) year period as defined in this Agreement.
4. Annual replenishment of the Renewal and Replacement Fund allocable to the FIS area, if necessary, as required by the City's Bond Ordinances.

The initial fees for the FIS will be then be calculated by subtracting the Non-Signatory Airlines premiums collected within the FIS Airport Cost Center from the total of the items in Section 6.05 (1) thru (4) above, then dividing the result by 750,000, which represents the base estimate of International Deplaned Passengers in the FIS in the initial Fiscal Year in which DBO occurs (pro-rated as applicable in such initial Fiscal Year). The resulting fee, multiplied by the actual number of International Deplaned Passengers in the FIS in any given month, shall be the amount payable to the City for the use of the FIS for the previous month. International Deplaned Passengers in the FIS will be adjusted at the end of the Fiscal Year following DBO to reflect the actual International Deplaned Passengers in the FIS.

In each subsequent fiscal year, fees for the FIS will be then be calculated by subtracting the Non-Signatory Airlines premiums collected within the FIS Cost Center from the total of the items in Section 6.05 (1) thru (4) above, then dividing the result by International Deplaned Passengers in the FIS.

Section 6.06. Central Terminal/Central Concourse Passenger Loading Bridge Charges

The total requirement for the City-owned passenger loading bridges in the Central Concourse (if applicable) sub-cost centers will be calculated by adding together the following amounts:

1. Direct and indirect Operation and Maintenance Expenses allocable to the

passenger loading bridges.

2. Amortization of the net cost of the passenger loading bridges (using a Useful Life of 15 years).

The annual Passenger Loading Bridge Charge will then be calculated by subtracting the Non-Signatory Airlines premiums collected for use of the City-owned passenger loading bridges in the Central Concourse from the total requirement allocable to the City-owned passenger loading bridges and then dividing by the total number of City-owned passenger loading bridges installed to determine an average passenger loading bridge charge.

Section 6.07. Central Terminal/Central Concourse Baggage Handling System Equipment Charges

A. Baggage Claim Equipment. The total requirement for the baggage claim equipment in the Central Terminal/Central Concourse (if applicable) will be calculated by adding together the following amounts:

1. Direct and indirect Operation and Maintenance Expenses allocable to the baggage claim equipment.
2. Amortization of the net cost of the baggage claim equipment (using a Useful Life of 15 years).

The annual baggage claim equipment charges will then be calculated by subtracting the Non-Signatory Airlines premiums collected for use of the baggage claim equipment from the total requirement allocable to the baggage claim equipment and the result will be allocated to each Signatory Airline as specified in Section 6.09 herein.

B. Outbound Baggage Equipment. Multiple outbound baggage equipment exists at the Airport and are shown in Exhibit C hereto. The total requirement for each outbound baggage equipment in the Central Terminal/Central Concourse (if applicable) will be calculated by adding together the following amounts:

1. Direct and indirect Operation and Maintenance Expenses allocable to each outbound baggage equipment.
2. Amortization of the net cost of each outbound baggage equipment (using a Useful Life of 15 years).

The annual outbound baggage equipment charges will then be calculated by subtracting the Non-Signatory Airlines premiums collected for use of the specific outbound baggage equipment from the total requirement allocable to each outbound baggage equipment and the result will be allocated to each Signatory Airline as specified in Section 6.09 herein, depending on which outbound baggage equipment is assigned.

Section 6.08. Landing Fee Rate

The total requirement for the Airfield Airport Cost Center will be calculated by adding together the following amounts:

1. Direct and indirect Operation and Maintenance Expenses allocable to the Airfield.
2. Amortization of the un-amortized net cost of each Capital Improvement in or allocable to the Airfield as of June 30, 1998, over the remaining useful life of the Capital Improvement at the City's weighted Cost of Capital for all Airport Capital Improvements as of that date.
3. Amortization of the net cost of each Capital Improvement placed in service in or allocable to the Airfield on or after July 1, 1998.
4. Interest on the cost of land allocable to the Airfield computed at City's historical average Cost of Capital.
5. Annual replenishment of the Renewal and Replacement Fund allocable to the Airfield, if necessary, as required by the City's Bond Ordinances.

The net requirement of the Airfield Airport Cost Center will then be calculated by subtracting revenues from general aviation landing fees (if any), general aviation fuel flowage fees and premiums paid by Non-Signatory Airlines from the total requirement. The Landing Fee Rate will then be calculated by dividing the net requirement of the Airfield by the sum of the landed weight for the 1) Signatory Airlines and 2) Non-Signatory Airlines. The landing fee will be calculated by multiplying Airline's landed weight for the applicable month by the landing fee rate calculated each Fiscal Year.

Section 6.09 Joint Use Rental Rates. The aggregate rental cost of all Joint Use Space shall be prorated among the airline users of such space as follows:

1. Twenty percent (20%) of the aggregate rental cost of the space shall be apportioned equally among the Signatory Airlines entitled to use the Joint Use Space.
2. Eighty percent (80%) of the aggregate rental cost of the space shall be apportioned among the Signatory Airlines entitled to use the Joint Use Space based on Enplaned Passengers.

Non-Signatory Airlines using Joint Use Space shall be assessed a twenty-five percent (25%) premium for these charges. The basis for the proration of the rental cost of all such Joint Use Space may be adjusted every six-months throughout the Term if the actual basis increases or decreases by more than ten percent (10%) from the budgeted amount. Such adjustments shall take place at the end of June of each year to be effective July 1 of that upcoming Fiscal Year and

at the end of December of each year to be effective January 1 of that Fiscal Year. Such adjustments shall use Enplaned Passenger figures for the preceding six-month period at the Airport as follows: for adjustments in June, the prior six-month period ending April 30 will be used; for the adjustments in December, the prior six-month period ending October 31 will be used.

It is acknowledged that multiple baggage make-up areas exist for which the rental cost shall be prorated only among the assigned users of such areas.

Section 6.10 Security Screening Rental Rates. The aggregate rental cost of all Security Screening Space shall be allocated as follows:

1. Fifty percent (50%) of the aggregate rental cost of the space shall be allocated to the airline users of such space in the same manner as described in the Joint Use Rental Rate calculation set forth in Section 6.09 above.
2. Fifty percent (50%) of the aggregate rental cost of the space shall be apportioned to HAS space.

Section 6.11. Credits to Southwest

For fees or rent charged directly to Southwest that include amortization of Southwest's Investment in the Project, Southwest will receive a monthly credit beginning upon DBO equal to one-twelfth (1/12) of the annual amount of such amortization, until or unless there is a buy-out of Southwest's Investment in the Project. Additionally, for the amounts collected from users, other than Southwest, for the Amortization of Southwest's Investment in the Project, City will separately credit Southwest monthly for such amounts received.

Section 6.12. Incremental Inside Concession Revenue Credit Applicable to Long-Term Signatory Airlines.

Following the first anniversary of the Effective Date and each anniversary thereafter for the Term of this Agreement, an Inside Concession Revenue credit shall be issued to Long-Term Signatory Airlines for each year in which the total Enplaned Passengers are greater than the baseline Enplaned Passengers. The baseline Enplaned Passengers shall be determined as the number of Enplaned Passengers at the Airport in the prior twelve calendar months preceding the Effective Date ("Baseline Passengers"). If a credit is to be made available, the credit will be calculated for the Long-Term Signatory Airlines as follows and as depicted in Exhibit L:

- Step 1: Subtract the Baseline Passengers from the current year Enplaned Passengers.
- Step 2: Divide the current year total Inside Concession Revenue by the current year total Enplaned Passengers.
- Step 3: Multiply the result of Step 1 by the result of Step 2. In no event will the total Incremental Inside Concession Revenue credit exceed \$3,900,000.
- Step 4: Allocate the result of Step 3 by the number of Enplaned Passengers of current Long-Term Signatory Airlines.

The City will calculate and notify the Long-Term Signatory Airlines of the Inside Concession Revenue credit within thirty (30) calendar days of receiving i) all airline statistical reports; and ii) all inside concession vendor reports, for the current year calculation. The Inside Concession Revenue credit will then be issued within fifteen (15) calendar days of such notification. The Inside Concession Revenue credit will be issued as a credit against the Long-Term Signatory Airlines rentals and fees.

Section 6.13. Mid-Year Rate Adjustments

In the event that, at any time during a Fiscal Year, the total costs of the Terminal Complex, Terminal Apron Area, or Airfield, or the aggregate Total Landed Weight of all airlines, is projected by City to vary ten percent (10%) or more from the estimates used in setting Terminal Complex Rental Rates, the Terminal Apron Area Fee Rates, or the Landing Fee Rate, such rates may be adjusted either up or down for the balance of such Fiscal Year, provided that such adjustment is deemed necessary by City. An upward adjustment shall only be used to ensure that adequate revenues will be available from such fees to recover the estimated total costs of the airline-supported cost centers. For each such adjustment, City shall provide Airline with a written explanation of the basis for the rate adjustment(s) and will provide thirty (30) days advance written notice before putting such adjustment(s) into effect. Unless extraordinary circumstances warrant additional adjustments, City will seek to limit such rate adjustments to no more than once each Fiscal Year.

Section 6.14. Year-End Adjustments to Actual and Settlement

As soon as possible following the close of each Fiscal Year, City shall furnish Airline with an accounting of the costs and expenses actually incurred, revenues and other credits actually realized (reconciled to the audited financial statements of the Airport System), actual enplaned passengers, actual deplaned international passengers and landed weights during such Fiscal Year with respect to all rates, fees and charges calculated in accordance with this Article VI and shall recalculate the rates, fees, and charges required for the Fiscal Year based on those actual costs and revenues. City shall convene a meeting of the airlines to discuss the calculation of the year-end settlement.

In the event that Airline's rentals, fees, and charges billed and paid during the Fiscal Year were more than the amount of Airline's rentals, fees, and charges required (as recalculated based on actual costs and revenues), such excess amount shall be issued as a credit to Airline within sixty (60) days of the meeting convened by the City to discuss the calculation of the year-end settlement.

In the event that Airline's rentals, fees, and charges billed and paid during the Fiscal Year were less than the amount of Airline's rentals, fees, and charges required (as recalculated based on actual costs and revenues), such deficiency shall be billed to Airline after the meeting convened by the City to discuss the calculation of the year-end settlement and payable by Airline within sixty (60) days of the date of invoice. However, in the event that the amount of the Airline deficiency is more than ten percent (10%) of total rentals, fees, and charges billed and paid by the Airline during the Fiscal Year (which deficiency must be at least \$25,000), Airline may pay the deficiency to City in three equal monthly installments without interest.

Section 6.15. Cost Control Measures

To promote competition at the Airport, the City will, subject to its covenants set forth in the Bond Ordinances, implement cost control measures which are intended to limit the growth in the airline cost per enplaned passenger in the following three Airport Cost Centers: (i) Central Terminal/Central Concourse, (ii) Central Concourse Apron, and (iii) Airfield.

A. The City will not levy fees or charges pursuant to this Agreement which would result in the actual total cost per Domestic Enplaned Passenger for the combined three designated Airport Cost Centers to exceed the total cost per Domestic Enplaned Passenger for those Airport Cost Centers for the year ending June 30, 2012, adjusted by the cumulative CPI through the year of calculation.

B. Until June 30, 2025, the number of Domestic Enplaned Passengers used for calculating the airline cost per enplanement for the Airport Cost Centers listed above in this Section 6.15 will be the greater of (i) the actual number of Domestic Enplaned Passengers in the Fiscal Year then ending or (ii) the number of Domestic Enplaned Passengers in the year ending June 30, 2012.

C. Beginning July 1, 2025, through the Expiration Date, the number of Domestic Enplaned Passengers used for calculating the airline cost per Domestic Enplaned Passenger in the designated Airport Cost Centers will be the greater of (i) the actual number of Domestic Enplaned Passengers in the Fiscal Year then ending or (ii) the greatest number of Domestic Enplaned Passengers in the three Fiscal Years preceding July 1, 2025.

D. If, during the Fiscal Year settlement process, it is discovered that the City levied fees or charges in the previous Fiscal Year in excess of the amounts allowed under this Section 6.15, the difference between such over collection and the amounts allowed under this Section 6.15 shall be issued to Airline in the form of a credit memo to be applied against future rates, fees and charges owed by Airline at the Airport. Such credit shall be applied on a per-enplanement basis.

E. In recognition of the impracticality of HAS anticipating or controlling certain unforeseen Airport expenses, the City's cost control obligations under this Section shall not include, and the calculation of the airline cost per Domestic Enplaned Passenger for purposes of these cost control measures shall exclude, all fees and charges in connection with the following expenditures by HAS:

1. Expenditures mandated, but not fully funded, by the federal government, including but not limited to the Federal Aviation Administration, Transportation Security Administration, Department of Transportation, Department of Homeland Security, or the Environmental Protection Agency. For purposes of this subparagraph, an expenditure will be considered to be mandated if (i) it is directly ordered by the applicable governmental authority, (ii) failure to make the expenditure could subject the City or HAS to penalties or remedial or corrective action, or (iii) an agency inspector notes a deficiency which would require an expenditure by the City or HAS to correct.
2. Expenditures mandated but not fully funded by the City (that apply on a City-wide basis without specific application to the Airport), Harris County or the State of Texas.
3. Expenditures in connection with the repair or replacement of facilities as a result of casualty damage to Airport property, net of any insurance proceeds, which HAS determines must be repaired or rebuilt in order for HAS to satisfy its obligations under this Agreement, any bond covenants, other agreements with Airport tenants, or any requirement of law, regulation, policy or directive of a governmental authority.

F. Upon request by Airline, the City shall, to the extent not otherwise prohibited by law, regulation, policy or directive, substantiate the cost excluded under the prior subparagraph and identify the applicable law, regulation, policy or directive.

G. The City's cost control measure will cease should applicable federal law or regulations limit the amount or eligibility of the City to levy Passenger Facility Charges beyond the limits and eligibility in existence at the Execution Date.

H. The City's covenants set forth in this Section 6.15 shall be subordinate in all respects to the City's covenants set forth in the Bond Ordinances.

Section 6.16. Commitments on PFCs

In recognition of the City's stated intent to control airport costs, Airline acknowledges the City's right to decide whether to levy and use Passenger Facility Charges (PFCs) for any lawful purpose, at the City's discretion, pursuant to 14 CFR Part 158. This provision shall in no manner affect the City's obligation to consult with Airline or to follow other procedures required of the City pursuant to 14 CFR Part 158 (or such successor regulation).

Section 6.17. Extraordinary Coverage Protection

Airline shall pay Extraordinary Coverage Protection for any Fiscal Year in which the amount of gross revenues less operation and maintenance expenses (as calculated under Bond Ordinances) at the Airport is projected or calculated to be less than 125% of the annual debt service requirement for outstanding debt of HAS (as calculated under the Bond Ordinances) for the Airport (the "~~Coverage Test~~"). Airline shall begin to make extraordinary coverage protection payments during such Fiscal Year the Coverage Test is projected or calculated to be less than 125%. Such payments, if required, will be charged to the Signatory Airlines by the City on a per-Enplaned Passenger basis among such Signatory Airlines. Should extraordinary coverage protection payments be made, City will refund via credit in the subsequent Fiscal Year to the Signatory Airlines such payments made by each Signatory Airline as soon as the Coverage Test is satisfied on a basis subordinate to the City's payment of debt service and other deposits under the Bond Ordinances.

Section 6.18. Per Use Charges

A. For Signatory Airlines utilizing Common Use space or space leased to another Signatory Airline on the Central Concourse, the City shall ensure that it charges at least the amount Non-Signatory Airlines would pay for the use of such space at the Airport, however Signatory Airlines will not be subject to the 25% Non-Signatory Airlines premium. The City will review and amend such methodology from time to time to achieve this goal.

B. For Signatory Airlines utilizing Common Use Gates or space leased to another Signatory Airline on the West Concourse for domestic arrivals, the City shall charge the Common Use Gate fee in Section 6.18(A). Non-Signatory Airlines would be subject to the 25% Non-Signatory Airlines premium. All amounts collected pursuant to this Section 6.18 shall reduce the total requirement calculated in Section 6.04.

Section 6.19. Project Credits to Southwest

A. Within 90 days after Southwest has provided the Director with a final certification of total costs spent on the Project as provided in Section 7.01, the City shall issue rental credits to Southwest equaling:

1. The amount Southwest spent on the Project to improve the pre-DBO space (non-International Facility space); plus
2. The amount Southwest spent to construct shell space in the International Facility intended for use by HAS or for lease or use by third parties, as authorized by the Director. Such amount shall be determined by multiplying the square footage of such space by the average rate per square foot for unfinished shell space in the West Terminal/West Concourse and FIS.

B. The credits to Southwest calculated in Section 6.19(A) above shall offset the amount of rates and charges Southwest owes at the Airport and shall be subject to funding appropriation by City Council.

Article VII

CONSTRUCTION OF IMPROVEMENTS

Section 7.01. Construction of the Project by Southwest

Beginning on the Execution Date, the terms and conditions under which Southwest will design and construct the Project are set forth in this Section 7.01, Sections 14.02 C and D of the Agreement and the MOA, which is incorporated herein by reference.

A. Within 30 days of DBO, Southwest shall provide the Director with a preliminary estimate of total costs spent on the Project. Within nine months of DBO, Southwest shall provide the Director with a final certification of total costs spent on the Project and supporting documentation, including a breakdown between the construction cost of shell space, and finished space, all of which shall be subject to audit by City.

B. Southwest shall provide electronic data to HAS on a timely basis in order for HAS to populate the Project Control System for the Project. Additionally, Southwest shall obtain all

temporary and final certificates of occupancy on the Project and it shall provide a certification of Project completion to the Director.

C. S/MWBE. Best Efforts shall be used to cause Southwest's contractors for the Project to meet the following S/MWBE participation goals: (i) for professional services, twenty-five percent (25%) certified S/MWBE; and (ii) for construction, twenty-five percent (25%) certified minority-owned business enterprises, and three percent (3%) certified small business enterprises. Reports shall be provided in a form acceptable to the Director or the City's Director of the Mayor's Office of Business Opportunity. The City shall have the right to audit compliance efforts under this subsection throughout the term of this Agreement in the same manner as it audits other City contractors.

As part of using Best Efforts under this Section 7.01 only, Southwest, at a minimum, agrees to:

1. Coordinate, with the City of Houston, an outreach program (if and as applicable) to target the local certified small, minority and women businesses to participate in contracting opportunities, which outreach program will include outreach to organizations and trade associations that serve small, minority and women as it pertains to the relevant scope of work.
2. Provide to the City, for posting on the City and HAS websites, and additionally work with the City to notify pertinent organizations that serve small, minority and women-owned businesses, its request for proposals for construction, along with the requirements of the Project.
3. Develop a strategy to create bid packages in size and scope that will encourage maximum opportunity for S/MWBE participation.
4. Designate an S/MWBE liaison officer who will coordinate any S/MWBE efforts and maintenance of records, as required herein, with the City.
5. Report the S/MWBE utilization as provided in this Section 7.01.
6. Meet no less than once a month with the City's Office of Business Opportunity to discuss S/MWBE performance and participation.

D. Drug Free Work Place. Southwest shall contractually require its contractors for the Project to comply with the City's Drug Detection and Deterrence Procedures for Contractors as set forth in the City of Houston Executive Order 1-31, as amended, which is incorporated into this Agreement by this reference.

E. Prevailing Wages. Southwest shall comply with Section 2258, Texas Government Code, with respect to prevailing wages as if it were a political subdivision of the state, and (ii) shall include in all of its construction contracts an obligation for its contractors and subcontractors to comply with Section 2258, Texas Government Code, with respect to paying workers prevailing wages and reporting requirements.

F. Pay or Play. Southwest shall contractually require its contractors for the Project to comply with the City's Pay or Play Program, as set out in Executive Order 1-7 and Ordinance 2007-504 which are incorporated into this Agreement by this reference.

G. Warranties. Southwest shall warrant and obtain warranties from its construction contractors, all of which warranties shall be for the benefit of the City and Southwest and in compliance with Texas law. Southwest shall prepare a Schedule of Warranties for the Project. Except as otherwise provided in the Schedule of Warranties for the Project, Southwest warrants that upon the DBO that:

1. The Project is free from all faults and defects, including those due to faulty materials or workmanship, and will so for a year following DBO.
2. All parts, materials, components, equipment, systems and other items incorporated as part of the Project shall be new, unless otherwise specified in the construction documents or otherwise agreed to by the City, and suitable for the purpose used, and will be of good quality and in conformance with the construction documents in all material respects. When requested by the Director, Southwest shall furnish satisfactory evidence that the kind and quality of materials and equipment incorporated into the Project satisfy the construction documents.
3. Except as provided in Section 7.05, the City has full title to all parts, materials, components, equipment, and other items incorporated into the Project, that its transfer of such title to the City is rightful, and that all such parts, materials, components, equipment, and other items shall be transferred free and clear of all security interests, liens, claims, or encumbrances whatsoever. Southwest agrees to defend such title against all persons claiming the whole or any part thereof.
4. All warranties shall have a term of not less than one (1) year from the date of acceptance by Southwest and shall be submitted to Director prior to the final completion of the Project or the portion thereof covered by any such warranty.
5. To the extent the Schedule of Warranties mandates longer warranty terms, Southwest shall provide such terms.
6. The City agrees that Southwest has the right to authorize its representatives and agents to make any claims, on the City's behalf under the warranties.
7. The City's rights under the warranties shall not be adversely affected by the termination of this Agreement.

H. Payment of Contractors and Subs. Southwest shall make timely payments to its construction contractors and all other subcontractors supplying labor, materials, or equipment for the performance of the Project. **SOUTHWEST SHALL DEFEND AND INDEMNIFY THE CITY FROM ANY CLAIMS ARISING OUT OF SOUTHWEST'S FAILURE TO MAKE THESE PAYMENTS.** Nothing contained in this Agreement shall grant or be deemed to grant to any

Contractor, subcontractor or any other person engaged by Southwest or their subcontractors in the performance of any part of the Project, any right of action or claim against the City, its officers, agents, employees, and representatives with respect to any work any of them may do in connection with the Project. Nothing contained in this Agreement shall create or be deemed to create any relationship between the City and any Southwest contractor, subcontractor or any other person engaged by Southwest or any of its contractors or subcontractors in the performance of the services for the Project. The City shall not be responsible to any of the foregoing for any payments due or alleged to be due for any work performed or materials purchased in connection with the Project. Southwest shall ensure that all payments are timely made to all Project creditors and suppliers and that the Project is free of all liens, claims, and security interests, or any other encumbrances.

I. Civic Art. The Project is declared to be an Eligible Project under Ordinance No. 2006-731, the Civic Art Program, and Southwest shall comply in all respects with such Ordinance. Such ordinance is hereby incorporated into this Agreement by this reference.

J. Hire Houston First. Southwest shall comply with Ordinance No. 2011-766, Hire Houston First, in all respects and such ordinance is hereby incorporated into this Agreement by this reference. For purposes of the ordinance, Southwest shall be considered the HAS.

K. Indemnification. SOUTHWEST AGREES TO AND SHALL DEFEND, INDEMNIFY, AND HOLD THE CITY, ITS AGENTS, EMPLOYEES, OFFICERS, AND LEGAL REPRESENTATIVES (COLLECTIVELY THE "CITY") HARMLESS FOR ALL CLAIMS, CAUSES OF ACTION, LIABILITIES, FINES, AND EXPENSES (INCLUDING, WITHOUT LIMITATION, ATTORNEYS' FEES, COURT COSTS, AND ALL OTHER DEFENSE COSTS AND INTEREST) FOR INJURY, DEATH, DAMAGE, OR LOSS TO PERSONS OR PROPERTY SUSTAINED IN CONNECTION WITH OR INCIDENTAL TO PERFORMANCE ON THE PROJECT, INCLUDING, WITHOUT LIMITATION, THOSE CAUSED BY:

.1 SOUTHWEST'S AND/OR ITS AGENTS', EMPLOYEES', OFFICERS', DIRECTORS', CONTRACTORS', OR SUBCONTRACTORS' (COLLECTIVELY IN NUMBERED SUBPARAGRAPHS .1 THROUGH .3 "SOUTHWEST") ACTUAL OR ALLEGED NEGLIGENCE OR INTENTIONAL ACTS OR OMISSIONS;

.2 THE CITY'S AND SOUTHWEST'S ACTUAL OR ALLEGED CONCURRENT NEGLIGENCE WHETHER SOUTHWEST IS IMMUNE FROM LIABILITY OR NOT;

.3 THE CITY'S AND SOUTHWEST'S ACTUAL OR ALLEGED STRICT PRODUCTS LIABILITY OR STRICT STATUTORY LIABILITY, WHETHER SOUTHWEST IS IMMUNE FROM LIABILITY OR NOT.

SOUTHWEST SHALL DEFEND, INDEMNIFY, AND HOLD THE CITY HARMLESS DURING THE PROSECUTION OF THE PROJECT AND FOR FOUR YEARS AFTER DBO OF THE PROJECT. SOUTHWEST SHALL NOT INDEMNIFY THE CITY FOR THE CITY'S SOLE NEGLIGENCE.

NOTWITHSTANDING ANYTHING TO THE CONTRARY, THE LIABILITY OF

SOUTHWEST FOR THE CITY'S CONCURRENT NEGLIGENCE SHALL NOT EXCEED \$1,000,000 PER OCCURRENCE.

SOUTHWEST SHALL USE BEST EFFORTS TO INCLUDE THIS SECTION 7.01 (K) INDEMNITY IN ITS CONTRACTS WITH CONTRACTORS, BUT ONLY TO THE EXTENT PERMISSIBLE UNDER TEXAS LAW, NAMING THE CITY AS AN INDEMNITEE.

If the City or Southwest receives notice of any claim or circumstances under which could give rise to an indemnified loss, the receiving party shall give written notice to the other party within 10 days. The notice must include (i) a description of the indemnification event in reasonable detail, (ii) the basis on which indemnification may be due, and (iii) the anticipated amount of the indemnified loss. This notice does not estop or prevent the City from later asserting a different basis for indemnification or a different amount of indemnified loss than that indicated in the initial notice. If the City does not provide this notice within the 10-day period, it does not waive any right to indemnification except to the extent that Southwest is prejudiced, suffers loss, or incurs expense because of the delay.

Southwest may assume the defense of the claim at its own expense with counsel chosen by it that is reasonably satisfactory to the City Attorney. Southwest shall then control the defense and any negotiations to settle the claim. Within 10 days after receiving written notice of the indemnification request, Southwest must advise the City Attorney as to whether or not it will defend the claim. If Southwest does not assume the defense, the City shall assume and control the defense, and all defense expenses constitute an indemnified loss.

If Southwest elects to defend the claim, the City may retain counsel to participate in, but not control, the defense and to participate in, but not control, any settlement negotiations. Southwest may settle the claim without the consent or agreement of the City unless it: (i) would result in injunctive relief or other equitable remedies or otherwise require the City to comply with restrictions or limitations that adversely affect the City; (ii) would require the City to pay amounts that Southwest does not fund in full; or (iii) would not result in the City's full and complete release from all liability to the plaintiffs or claimants who are parties to or otherwise bound by the settlement.

L. Project Insurance. With no intent to limit Southwest's liability or indemnification provisions set forth in Paragraph J above, Southwest shall cause Project contractors to provide and maintain certain insurance in full force and effect until at least final completion of the Project. If any of the insurance is written as "claims made" coverage, then Southwest agrees to cause Project contractors to keep such claims made insurance in full force and effect by purchasing policy period extensions for at least three years after final completion of the Project. The minimum coverage is as follows:

COVERAGE

Workers Compensation:

Employer's Liability:

LIMIT OF LIABILITY

Statutory for Workers' Compensation

Bodily Injury by Accident \$1,000,000 (each accident)

Bodily Injury by Disease \$1,000,000 (policy limit)

Bodily Injury by Disease \$1,000,000 (each employee)

Commercial General Liability: Including Contractor's Protective, Broad Form Property Damage, Contractual Liability, Explosion, Underground and Collapse, Bodily Injury, Personal Injury, Products, and Completed Operations (for a period of one year following completion of the Project).	Combined single limit of \$5,000,000 (each occurrence), subject to general aggregate of \$10,000,000; Products and Completed Operations \$1,000,000 aggregate.
Owner's and Contractor's Protective Liability:	\$1,000,000 combined single limit each Occurrence/aggregate.
Installation Floater:	Value of stored material or equipment, listed on Certificates of Payments, but not yet incorporated into the Work.
Automobile Liability Insurance: (For automobiles furnished by Contractor in course of his performance under the Contract, including Owned, Non-owned, and Hired Auto coverage)	\$5,000,000 combined single limit each Occurrence for (1) Any Auto or (2) All Owned, Hired, and Non-Owned Autos.
Excess Coverage:	\$25,000,000 each Occurrence/combined aggregate in excess of limits specified for Employer's Liability, Commercial General Liability, and Automobile Liability.

Defense costs are excluded from the face amount of policy.

Aggregate Limits are per 12-month policy period unless otherwise indicated.

1. **Professional Liability Coverage.** In connection with the design of the Project, Southwest shall also provide for professional liability coverage in the amount of \$1,000,000 per occurrence; \$2 million aggregate.

2. **Form of Policies.** Insurance may be in one or more policies of insurance, the form of which is subject to approval of the Director. It is agreed, however, that nothing the Director does or fails to do relieves Southwest from its duties to provide the required coverage under this Agreement. The Director's actions or inactions do not waive the City's rights under this Agreement.

3. **Issuers of Policies.** The issuer of any policy shall have a Certificate of Authority to transact insurance business in Texas or have a Best's rating of at least B+ and a Best's Financial Size Category of Class VI or better, according to the most current edition Best's Key Rating Guide, and the issuer must be an eligible non-admitted insurer in the State of Texas.

4. **Insured Parties.** Each policy, except those for Worker's Compensation, Owner's and Contractor's Protective Liability, and Professional Liability, must name the City and its officers, agents, and employees as Additional Insured parties on the original policy and all renewals or replacements.

5. **Deductibles.** Southwest shall be responsible for and bear any claims or losses to the extent of any deductible amounts and waives any claim it may have for the same against the City, its officers, agents, or employees.

6. **Cancellation.** Southwest shall notify the Director in writing 30 days prior to any cancellation or material change to Southwest's insurance coverage. Within the 30 day period, Southwest shall provide other suitable policies in lieu of those about to be canceled or non-renewed so as to maintain in effect the required coverage. If Southwest does not comply with this requirement, the Director, at his discretion, may: (i) immediately stop work on the Project, or (ii) or purchase the required insurance with City funds and invoice Southwest for such costs.

7. **Subrogation.** Each policy, except Professional Liability and Owner's and Contractor's Protective Liability must contain an endorsement to the effect that the issuer waives any claim or right of subrogation to recover against the City, its officers, agents, or employees.

8. **Endorsement of Primary Insurance.** Each policy, except Worker's Compensation, Professional Liability, and Contractor's Protective Liability must contain an endorsement that the policy is primary to any other insurance available to the Additional Insured with respect to claims arising under this Agreement.

9. **Liability for Premium.** Southwest is solely responsible for payment of all insurance premiums and the City is not obligated to pay such premiums.

10. **Subcontractors.** Southwest shall ensure that all subcontractors whose subcontracts exceed \$100,000 obtain Commercial General Liability, Workers' Compensation, Employer's Liability and Automobile Liability coverage that meets all the requirements of this Section 7.01 (L) except amount of coverage. The amount of coverage must be commensurate with the amount of the subcontract, but not less than \$500,000 per occurrence. Additionally, coverage exposure shall be limited to each subcontractor's scope of work and then, only for the duration of its work on the Project.

11. **Proof of Insurance.** Prior to commencing any work on the Project, Southwest shall furnish the Director with Certificates of Insurance, along with an affidavit from Southwest confirming that the Certificate accurately reflects insurance coverage that is available as required herein. If requested in writing by the Director, Southwest shall furnish with certified copies of Southwest's actual insurance policies. At the time this Agreement is signed, Southwest must furnish to the Director certificates of insurance. These certificates must bear the Project name for which they are issued. If requested by the Director, Southwest must provide the originals of all policies referred to above, or copies certified by the agent or attorney-in-fact issuing them. Southwest shall continuously and without interruption, maintain in force the required insurance coverage specified in this Paragraph K. If Southwest does not comply with this requirement, the Director, at his or her sole discretion, may: (i) immediately suspend Southwest from any further performance under this Agreement and begin procedures to terminate for default, or (ii) purchase the required insurance with City funds and require reimbursement from Southwest. The City shall never waive or be estopped to assert its right to terminate this Agreement because of its acts or omissions regarding its review of insurance documents.

12. **Insurance under Construction Contract.** All insurance policies required under the construction contract(s) must be issued in the name of the Contractor, Southwest and the City, as their interests may appear. In any event, the City (and its officers, agents, and employees) shall be named as additional insured parties on all policies and all renewals or replacements except those for Workers' Compensation, Professional Liability, and Owner's and Contractor's Protective Liability.

M. Performance and Payment Bonds. Southwest shall contractually require that its contractor(s) provide within thirty (30) days prior to commencement of work on the Project, a Performance Bond and a Payment Bond on forms approved in advance by the City, and each in a penal sum required to comply with the Texas Government Code. The bonds shall be issued by a surety company that is authorized and admitted to write surety bonds in the State of Texas and also holds a certificate of authority from the United States Treasury to qualify as surety on obligations permitted or required under federal law. Sureties on the bonds shall designate an agent resident in Harris County to whom any requisite notices may be delivered and on whom service of process may be had in matters arising out of the suretyship. The Payment Bond shall satisfy all statutory requirements applicable to the City and Southwest shall furnish information to a payment bond beneficiary as required by the Texas Government Code.

N. Force Majeure. Timely performance by Southwest is essential to this Project. However, Southwest is not liable for delays or other failures to perform its obligations under this Section 7.01 or the MOA to the extent the delay or failure is caused by Force Majeure. Force Majeure means fires, floods, explosions, and other acts of God, war, terrorist acts, riots, court orders, and the acts of superior governmental or military authority. However, this relief is not applicable unless Southwest uses due diligence to remove the Force Majeure as quickly as possible and provides the Director with prompt written notice of the cause and its anticipated effect. Southwest is not relieved from performing its obligations under this Section 7.01 or the MOA due to a strike or work slowdown of its employees or its contractor's employees. Southwest shall employ only fully trained and qualified personnel during a strike.

If there is a Force Majeure event at the Project site (or impacting the Project from another location) which creates a health or safety concern, as determined by Southwest or the Director, Southwest or the Director shall have the right to immediately suspend all or a portion of the work on the Project with no consequences to Southwest or the City. At such time as the Force Majeure event is resolved, as mutually agreed by Southwest and the Director, Southwest may resume work on the Project.

O. Nonconforming Work. Under Section 3.3 of the MOA, the final design and construction documents must be approved by the Director prior to the commencement of construction by Southwest. Should Southwest fail to construct the Project consistent with the approved design and construction documents, the Director may require that Southwest correct such nonconforming work at its sole cost and expense.

P. Applicability of City Regulations, Ordinances and Executive Orders. For all City regulations, ordinances, and executive orders cited in this Agreement or otherwise incorporated by reference, Southwest's compliance therewith shall be limited to the versions of those regulations, ordinances and executive orders as they exist on the Execution Date.

Q. Incorporation of Provisions into Design and Construction Contracts. Southwest shall contractually require its design and construction contractors to meet the obligations imposed on Southwest by the City under this Article VII, the MOA and Sections 14.02 (C) and (D) of this Agreement, to the extent those obligations are applicable to such design and construction contractors' services or work.

Section 7.02. Future Capital Improvements by City

A. City may expand, repair, alter, and improve the Airport as the City, in its sole judgment, may deem necessary to provide required facilities in the interest of the public and City, to include and not limited to all roadways, parking areas, terminal facilities, apron areas, landing areas and taxiways as it may reasonably see fit, free from any liability to Airline for loss of business or damages of any nature whatsoever to Airline occasioned during the making of such improvements, repairs, alterations and additions. City will confer and coordinate with Airline and the other airlines serving the Airport regarding planned Capital Improvements at the Airport, and, at least annually, provide the airlines with a detailed schedule of such planned Capital Improvements. However, City will retain the discretion to make capital investment decisions and issue bonds, as needed, to ensure that adequate facilities are provided on a timely basis to meet public and airline needs.

B. Notwithstanding Section 7.02(A) or any other provision of this Agreement to the contrary, City shall not undertake any expansion of the West Terminal/West Concourse until City has bought out Southwest's Investment in the Project pursuant to Section 7.04 of this Agreement.

Section 7.03. Future Construction by Airline (Other Than the Project)

A. General / Approval of Plans. Airline may construct or install at its own expense any improvements, facilities or equipment, and any additions thereto, in the Leased Premises; provided, however that the plans and specifications for any such proposed construction or installation, including any alteration or addition thereto, shall be submitted to and receive the written approval of the Director prior to the commencement of construction, alteration or installation. All such construction, alteration, or installation may be made only after obtaining requisite building or construction licenses and permits and, in addition to usual City inspection, shall be subject to inspection and approval by Director to see that said approved plans and specifications are being followed. All such construction, alteration, and installation shall be designed and carried out in accordance with the Houston Airport System's Tenant Improvement Program. Upon completion of construction, Airline shall provide City with record drawings of the improvements in AutoCAD electronic format and manuals in electronic format.

B. Airline Right to Select Architects and Contractors. No restrictions shall be placed on Airline as to architects, builders or contractors which it may employ in connection with any construction, installation, alteration, repair or maintenance by Airline in the Leased Premises.

C. Title to Airline-Constructed Improvements. Title to all Airline-constructed improvements in the Leased Premises, other than the equipment, trade fixtures and personal property that Airline is permitted to remove under the provisions of Section 4.05B hereof, shall vest in City immediately upon completion thereof.

D. Contractor Indemnity and Warranty. Airline will provide an indemnity from its construction contractors to City to the same extent as Airline obtains an indemnity from such

contractor. Additionally, Airline will use its best efforts to cause all construction contractor warranties to inure to the benefit of City.

Section 7.04. City Buy-Out Rights

Southwest represents that all funding for the Project will be from internally generated funds; that no debt will be used to finance the Project. At any time after final completion of the Project, the City may buy-out Southwest's Investment in the Project for the then-unamortized cost of the Project calculated at the City's imputed Amortization rate over a twenty-five (25) year period as defined in this Agreement. As of the Execution Date of Southwest's Airport Use and Lease Agreement, it is not the intention of the City to use Airport Improvement Funds for such buy-out. Should the City buy-out Southwest's investment, thereafter Southwest will be responsible for the payment of its proportionate share of HAS capital charges and will have the same obligation as any other airline using and operating in the Project with regard to any and all rental charges and fees, as provided in Article VI hereof.

Section 7.05. Donation Agreement

Pursuant to the "Agreement for Donation and Assignment" between Southwest and the City, effective on March 22, 2013, as of the date of countersignature by the City's Controller (the "Donation Agreement"), and notwithstanding anything to the contrary in this Agreement, including any provisions in the Agreement or any other document regarding transfer of title, Southwest grants and conveys to City all right, title, and interest that Southwest may have in the Purchased Items (as defined in the Donation Agreement) pursuant to the Project Contracts (as defined in the Donation Agreement), such transfer of title to be effective before the Purchased Items are used by either Southwest or the Project contractor(s). Southwest has donated or will donate and convey all right, title, and interest in any Purchased Items acquired pursuant to the Project Contracts to City immediately upon acquisition of such Purchased Items.

Article VIII

OPERATION AND MAINTENANCE

Section 8.01. Obligations of City

A. Exclusive Use Space and Preferential Use Space. City shall furnish structural maintenance to all City-owned facilities. City shall provide maintenance and operation of all City-owned equipment and systems, including inside window (Preferential Use Space only) and outside window and exterior building structure cleaning, use reasonable efforts to furnish sufficient heat and air conditioning through its installed systems in those areas so equipped for such services and furnish electrical power for interior area lighting and provide electrical re-lamping in Preferential Use Space (as set forth in Exhibit I).

B. Joint Use Space. City shall furnish structural maintenance of City-owned facilities; perform maintenance and operation of City-owned equipment and systems; and provide area lighting, janitorial, heating and air conditioning (as set forth in Exhibit I).

C. Security Screening Space. City shall furnish structural maintenance of City-owned facilities; provide maintenance and operation of City-owned equipment and systems; and provide area lighting, janitorial, heating and air conditioning (as set forth in Exhibit I).

D. Preferential Use Terminal Complex Apron Area. City shall provide structural maintenance for the Preferential Use Terminal Complex Apron Area, maintain apron area lighting, and shall perform all aircraft parking position painting based on aircraft parking plans provided by Airline.

E. Passenger Loading Bridges and Baggage Handling Systems. Unless otherwise agreed to in writing between the Director and the Airline, City shall provide maintenance (including routine and scheduled maintenance) and exterior equipment cleaning for all City-owned passenger loading bridges and City-owned baggage handling systems (as set forth in Exhibit I). Any transfer of this obligation from the City to the Airline will identify minimum standards of maintenance.

F. Common Use Airport Facilities. City shall operate, maintain and keep in good repair the areas and facilities provided by City for the common use of the airlines and the public in accordance with the practices of a reasonably prudent airport operator (as set forth in Exhibit I). City agrees to use its best efforts to keep the Airport free from obstructions and to do all things reasonably necessary for the safe, convenient and proper use of the Airport by those who are authorized to use the same. City shall maintain and operate the Airport in accordance with all applicable standards, rules and regulations of the Federal Aviation Administration.

G. Public Areas of the Terminal Complex. Except as may otherwise be provided herein, City will operate, maintain and keep in neat, clean, sanitary, sightly and operable condition and repair the public areas of the Terminal Complex (except for those areas therein leased to others for their Exclusive Use or Preferential Use) and all additions, improvements and facilities now or hereafter owned by City, at or in connection with the Terminal Complex and for common use by all airlines and the public, excepting any improvements or facilities constructed or installed by Airline, either individually or jointly with others and those that Airline has agreed under the provisions hereof to operate or maintain as aforesaid (as set forth in Exhibit I). Except as otherwise provided herein, City will keep the roof, structure and utility systems of the Terminal Complex in good repair. City will keep the public areas in and around the Terminal Complex adequately supplied, equipped and furnished to accommodate the public using same and will operate and maintain directional signs in said public areas, including by way of example, but not by way of limitation, signs indicating the location in the Terminal Complex of public facilities provided by City on the Airport. City will use reasonable efforts to provide (1) sufficient heat and air conditioning to those areas on the Airport equipped for such service; (2) illumination and drinking water in the public areas in the Terminal Complex; (3) adequate lighting for the public vehicular parking facilities; and (4) such janitorial and cleaning services as necessary to keep the public areas and public use restrooms of the Terminal Complex and areas adjacent thereto in a neat, clean, sanitary, sightly and operable condition at all times.

Section 8.02. Obligations of Airline

A. Exclusive Use Space and Preferential Use Space. Airline shall provide all maintenance, as set forth in Exhibit I, in the Exclusive Use Space and Preferential Use Space not otherwise provided by City under Section 8.01 hereof. Airline shall furnish all janitorial services, all maintenance and operation of Airline-owned improvements and systems in the Exclusive Use Space and Preferential Use Space. Airline shall provide electrical re-lamping, all decorating and redecorating when required and maintenance for plumbing lines in the Exclusive Use Space. Airline shall maintain the Exclusive Use Space and Preferential Use Space in a neat, clean, sanitary, sightly and operable condition.

B. Joint Use Space. Airline shall furnish all maintenance and operation of Airline-installed improvements and systems in the Joint Use Space (as set forth in Exhibit I) not otherwise provided by City under Section 8.01 hereof. Airline will conduct its operation in a neat, clean, sanitary, and sightly way.

C. Security Screening Space. Airline shall furnish all maintenance and operation of Airline-installed improvements, if any, and systems in the Security Screening Space (as set forth in Exhibit I) not otherwise provided by City under Section 8.01 hereof. Airline will conduct its operation in a neat, clean, sanitary, and sightly way.

D. Preferential Use Terminal Complex Apron Area. Airline shall perform or cause to be performed such cleaning of the Preferential Use Terminal Apron Area leased to Airline as shall be necessary to keep said area in a clean, neat and orderly condition and free of foreign objects, and shall periodically on an as-needed basis remove grease, oil, and fuel spills with ramp scrubbing equipment and repair any foreign object damage.

E. Passenger Loading Bridges. Airline shall furnish all janitorial services in the City-owned passenger loading bridges. Airline shall not modify or attach personal property or signage to City-owned passenger loading bridges without the advance written approval of the Director (which approval may be withheld at Director's sole discretion). Airline shall maintain all City-owned passenger loading bridges in a neat, clean, sanitary, and sightly condition and provide janitorial services.

F. Airline-Constructed Improvements. Airline shall cause all improvements and facilities, and additions thereto, constructed or installed by Airline and not otherwise conveyed to the City, either alone or in conjunction with other airline tenants, and those constructed or installed by City in Airline's Exclusive Use Space and Preferential Use Space, and all vehicles and equipment operated by Airline on the Airport to be kept and maintained in a safe condition and in good repair (except those repairs and maintenance undertaken by City in Section 8.01 hereof) in accordance with uniform standards applicable to all Airport tenants as established from time to time by the Director. Airline shall keep the Exclusive Use Space and Preferential Use Space and improvements thereon in a sanitary and neat condition and, during construction, shall cause compliance with all health, safety and other laws and requirements applicable thereto; provided, however, that notwithstanding anything herein to the contrary, Airline shall not be obligated to make any capital repairs or structural alterations to so comply, unless necessitated as a result of Airline's construction activities.

G. Performance by City Upon Failure of Airline to Maintain. In the event Airline fails within thirty days after written notice from City to perform any obligation required under this Section 8.02 to be performed by Airline, City may enter the Leased Premises involved, without such entrance causing or constituting a termination of this Agreement or an interference with the possession of said Leased Premises by Airline, and do all things reasonably necessary to perform such obligation. Director may charge Airline the reasonable cost and expense of performing such obligation and Airline agrees to pay to City upon demand such charge in addition to any other amounts payable by Airline hereunder; provided, however, that if Airline's failure to perform any such obligation endangers the safety of the public, the employees or property of City, or other tenants of the Airport and Director so states in its written notice to Airline, City may perform such obligation of Airline at any time after the giving of such notice and charge to Airline the reasonable cost and expense of such performance which Airline shall pay as aforesaid.

Article IX

INDEMNIFICATION

Section 9.01. RELEASE AND INDEMNIFICATION OF CITY.

A. AIRLINE, FOR ITSELF, ITS SUCCESSORS AND ASSIGNS HEREBY RELEASES AND DISCHARGES CITY, ITS PREDECESSORS, SUCCESSORS, ASSIGNS, LEGAL REPRESENTATIVES AND ITS AGENTS, EMPLOYEES AND OFFICERS (COLLECTIVELY IN THIS SECTION "CITY") FROM ANY LIABILITY OF CITY FOR (i) ANY DAMAGE TO PROPERTY OF AIRLINE OR (ii) FOR CONSEQUENTIAL DAMAGES SUFFERED BY AIRLINE, WHERE ANY SUCH DAMAGE IS SUSTAINED IN CONNECTION WITH OR ARISING OUT OF THE PERFORMANCE OF THIS AGREEMENT.

B. WITH NO INTENT TO AFFECT AIRLINE'S ENVIRONMENTAL INDEMNIFICATION SET FORTH IN SECTION 14.02(D), AIRLINE EXPRESSLY AGREES TO PROTECT, DEFEND, INDEMNIFY AND HOLD CITY COMPLETELY HARMLESS FROM AND AGAINST (BUT SUBJECT TO SECTIONS D AND E HEREOF): (i) ANY AND ALL LIABILITIES, LAWSUITS, CAUSES OF ACTION, LOSSES, CLAIMS, JUDGMENTS, DAMAGES, FINES OR DEMANDS ARISING BY REASON OF OR IN CONNECTION WITH THE ACTUAL OR ALLEGED ERRORS, OMISSIONS, OR NEGLIGENT ACTS OF AIRLINE OR OF CITY IN CONNECTION WITH OR ARISING OUT OF THE PERFORMANCE OF THIS AGREEMENT, INCLUDING, BUT NOT LIMITED TO, BODILY INJURY, ILLNESS, PHYSICAL OR MENTAL IMPAIRMENT, DEATH OF ANY PERSON, OR THE DAMAGE TO OR DESTRUCTION OF ANY REAL OR PERSONAL PROPERTY; AND (ii) ALL REASONABLE, OUT-OF-POCKET COSTS INCURRED TO ESTABLISH CITY'S RIGHT TO INDEMNIFICATION HEREUNDER; AND (iii) ALL COSTS FOR THE INVESTIGATION AND DEFENSE OF ANY AND ALL LIABILITIES, LAWSUITS, CAUSES OF ACTION, LOSSES, CLAIMS, JUDGMENTS, DAMAGES, FINES OR DEMANDS INCLUDING, BUT NOT LIMITED TO, REASONABLE ATTORNEY FEES, COURT COSTS, DISCOVERY COSTS AND EXPERT FEES. SUBJECT TO SUBSECTIONS D AND E HEREOF, AIRLINE'S AGREEMENT TO PROTECT, DEFEND, INDEMNIFY AND HOLD HARMLESS CITY EXPRESSLY EXTENDS TO THE ACTUAL OR ALLEGED JOINT OR CONCURRENT NEGLIGENCE OF CITY AND AIRLINE.

C. UPON THE FILING BY ANYONE OF ANY TYPE OF CLAIM, CAUSE OF ACTION OR LAWSUIT AGAINST CITY FOR ANY TYPE OF DAMAGES ARISING OUT OF INCIDENTS FOR WHICH CITY IS TO BE INDEMNIFIED BY AIRLINE PURSUANT TO THIS SECTION 9.01, CITY SHALL, AS SOON AS PRACTICAL, AND, IN ANY EVENT, WITHIN 10 DAYS OF CITY BECOMING AWARE THEREOF, NOTIFY AIRLINE OF SUCH CLAIM, CAUSE OF ACTION OR LAWSUIT. IN THE EVENT THAT AIRLINE DOES NOT SETTLE OR COMPROMISE SUCH CLAIM, CAUSE OF ACTION, OR LAWSUIT AT ITS OWN COST, TO THE EXTENT AIRLINE IS REQUIRED TO INDEMNIFY CITY PURSUANT TO THIS SECTION 9.01, THEN AIRLINE SHALL UNDERTAKE THE LEGAL DEFENSE OF SUCH CLAIM, CAUSE OF ACTION, OR LAWSUIT AT ITS OWN COST (SUBJECT TO SECTION 9.01E) THROUGH COUNSEL OF RECOGNIZED CAPACITY OR OTHERWISE NOT REASONABLY DISAPPROVED BY CITY BOTH ON BEHALF OF ITSELF AND ON BEHALF OF CITY (ASSUMING NO SUBSTANTIAL CONFLICTS OF INTEREST EXIST) UNTIL FINAL DISPOSITION, INCLUDING ALL APPEALS. CITY MAY, AT ITS SOLE RISK, COST AND EXPENSE, PARTICIPATE IN THE LEGAL DEFENSE OF ANY SUCH CLAIM, CAUSE OF ACTION OR LAWSUIT BY AIRLINE TO DEFEND AGAINST SUCH CLAIM, CAUSE OF ACTION OR LAWSUIT WITHOUT SUCH PARTICIPATION AFFECTING AIRLINE'S OBLIGATION HEREIN. ANY FINAL JUDGMENT RENDERED AGAINST CITY FOR ANY CAUSE FOR WHICH CITY IS TO BE INDEMNIFIED AGAINST PURSUANT TO THIS SECTION 9.01 SHALL BE CONCLUSIVE AGAINST AIRLINE AS TO LIABILITY AND AMOUNT UPON THE EXPIRATION OF THE TIME FOR ALL APPEALS.

D. THE PROVISIONS OF SECTION 9.01B AND C HEREOF SHALL NOT APPLY TO ANY CLAIM OR DEMAND (i) TO THE EXTENT ARISING FROM THE NEGLIGENCE OF CITY WHEN CITY IS MORE THAN 50% LIABLE, UNDER THIS AGREEMENT, OR FROM THE BREACH OF CITY'S EXPRESS OBLIGATIONS HEREUNDER; OR (ii) IF SUCH CLAIM OR DEMAND RELATES TO ANY ACT OR OMISSION OCCURRING OUTSIDE THE PREMISES LEASED EXCLUSIVELY, COMMONLY, OR PREFERENTIALLY TO AIRLINE UNDER THIS AGREEMENT, UNLESS AIRLINE IS MORE LIABLE FOR (i.e., IS MORE AT FAULT FOR) SUCH CLAIM OR DEMAND THAN EACH OTHER PARTY TO SUCH CLAIM OR DEMAND; (iii) TO THE EXTENT THE CLAIM OR DEMAND IS COVERED UNDER THE INSURANCE AVAILABLE TO CITY AS AN ADDITIONAL INSURED UNDER ARTICLE X HEREIN; (iv) TO THE EXTENT THE CLAIM OR DEMAND IS COVERED UNDER A THIRD PARTY INSURANCE POLICY OWNED OR CARRIED BY CITY AND/OR ANY OF ITS AGENCIES OR INSTRUMENTALITIES; OR (v) UNLESS THE CLAIM OR DEMAND IS COVERED BY, OR CITY HAS ASSERTED A DEFENSE BASED ON GOVERNMENTAL OR SOVEREIGN IMMUNITY. CITY SHALL BE RESPONSIBLE FOR ASSERTING ANY DEFENSE OF GOVERNMENTAL IMMUNITY AS IT MAY EXIST FROM TIME TO TIME, AND IT SHALL DO SO UPON THE TIMELY WRITTEN REQUEST OF AIRLINE OR ITS INSURANCE CARRIER(S); PROVIDED, THAT, IF (a) A CLAIM OR DEMAND IS MADE AGAINST AIRLINE BY A THIRD PARTY FOR WHICH AIRLINE HAS INSURANCE COVERAGE PURSUANT TO SECTIONS 10.02 AND 10.03 HEREOF, AND (b) THERE IS A DEDUCTIBLE CARRIED BY AIRLINE APPLICABLE TO SUCH CLAIM OR DEMAND (OR AIRLINE, THROUGH SELF-INSURANCE OR OTHER SELF-FUNDED INSURANCE PROGRAM, BEARS THE FINANCIAL RISK OF ANY PORTION OF SUCH CLAIM OR DEMAND AS TO THE DEDUCTIBLE ONLY), THEN THE PROVISIONS OF SECTION 9.01B AND C SHALL APPLY TO SUCH PORTION OF THE CLAIM OR DEMAND THAT IS SUBJECT TO SUCH DEDUCTIBLE OR SELF-INSURANCE OF THE DEDUCTIBLE OR OTHER SELF-FUNDED INSURANCE PROGRAM AS TO THE DEDUCTIBLE (AND TO ANY OTHER PORTION OF THE CLAIM OR DEMAND AS TO CITY THAT IS NOT SATISFIED WITH INSURANCE PROCEEDS). FOR PURPOSES OF THIS SECTION, AIRLINE COVENANTS AND AGREES THAT AS TO EACH CLAIM OR DEMAND THAT MAY

BE SUBJECT TO THE PROVISIONS HEREOF, THE DEDUCTIBLE AMOUNT SHALL NEVER BE DEEMED TO BE GREATER THAN \$1,000,000.

E. NOTWITHSTANDING ANYTHING IN THIS SECTION TO THE CONTRARY, THE LIABILITY OF THE AIRLINE FOR CITY'S NEGLIGENCE, INCLUSIVE OF ALL DEFENSE COSTS EXPENDED SOLELY FOR CITY'S DEFENSE, UNDER SECTION 9.01B AND C SHALL NOT EXCEED \$1,000,000 PER OCCURRENCE.

Article X

INSURANCE

Section 10.01. General

With no intent to limit or increase Airline's liability or the indemnification provisions herein, Airline shall provide and maintain certain insurance (except as to Environmental/Impairment Pollution coverage as set forth below) in full force and effect at all times during the term of this Agreement and all extensions thereto, as set forth Section 10.02 below. If any of the insurance is written as "claims made" coverage, then Airline agrees to keep such "claims made" insurance in full force and effect by purchasing policy period extensions for at least five years after the expiration or termination of this Agreement.

Section 10.02. Risks and Minimum Limits of Coverage

Workers Compensation: Employer's Liability:	Statutory Bodily injury by accident \$1,000,000 (each accident) Bodily injury by Disease \$1,000,000 (policy limit) Bodily injury by Disease \$1,000,000 (each employee)
Commercial General Liability: (Including broad form coverage, contractual liability, bodily and personal injury, and products and completed operations)	Combined single limit of: \$10,000,000 per occurrence / aggregate Products and Completed operations: \$10,000,000 aggregate
Aircraft Liability: (covering owned, hired, and non-owned aircraft including passenger liability)	\$200,000,000 combined single limit
Environmental Impairment / Pollution: (including coverage for receiving, dispensing, transporting, removal and handling of aviation fuels or any other pollutants, as well as any other operations involving pollutants)	\$1,000,000 combined single limit per occurrence Coverage required contingent upon Airline's election, in its sole discretion, to purchase this coverage
All Risk: (Covering Airline improvements, trade fixtures and equipment, including fire, lighting, vandalism, and extended coverage perils)	Replacement value

Automobile Liability Insurance: \$5,000,000 combined single limit per occurrence
(For automobiles used by Airline in the course of its performance under this Agreement, including Airline's non-owned and hired autos)

(Aggregate limits are per 12-month period unless otherwise indicated.)

Section 10.03. Other Provisions

A. Form of Policies. The insurance may be in one or more policies of insurance. Nothing the Director does or fails to do shall relieve Airline from its duties to provide the required coverage hereunder, and the Director's actions or inactions shall not be construed as waiving City's rights hereunder.

B. Issuers of Policies. The issuer of any policy shall have a Certificate of Authority to transact insurance business in the State of Texas or have a Best's rating of at least B+ and a Best's Financial Size Category of Class VI or better, according to the most current edition of Best's Key Rating Guide, Property-Casualty United States.

C. Insured Parties. Each policy, except those for Workers Compensation, Professional Liability and Employer's Liability, shall name City (and its officers, agents, and employees) as Additional Insured as its interest may appear on the issued certificate of insurance and all renewal certificates (such certificates to accurately reflect City's Additional Insured status on Airline's original policies and any renewals or replacements thereof during the term of this Agreement). City shall be named Loss Payee on All Risk and Builders Risk coverages (except to the extent coverage relates to Airline's equipment and personal property).

D. Deductibles. Without increasing, decreasing or expanding its duties under Section 10.01. hereof, Airline shall assume and bear any claims or losses to the extent of any deductible amounts and waives any claim it may ever have for the same against City, its officers, agents, or employees; provided, however, that nothing herein stated shall diminish Airline's rights or increase Airline's obligations in respect to its undertakings or hold harmless, defense and indemnification set forth in Article IX hereof.

E. Cancellation. Airline shall notify the Director in writing 30 days prior to any cancellation or material change to Airline's insurance coverage. Within the 30 day period, Airline shall provide other suitable policies in lieu of those about to be canceled or nonrenewed so as to maintain in effect the required coverage. If Southwest does not comply with this requirement, the Director, at his discretion, may purchase the required insurance with City funds and invoice Airline for such costs.

F. Aggregates. Airline shall give written notice to the Director within twenty (20) days of the date upon which total claims by any party against Airline reduce the aggregate amount of coverage below the amounts required by this Agreement. In the alternative, the policy

may contain an endorsement establishing a policy aggregate for the particular project or location subject to this Agreement.

G. Subrogation. Each policy shall contain an endorsement to the effect that the issuer waives any claim or right in the nature of subrogation to recover against City, its officers, agents, or employees.

H. Endorsement of Primary Insurance. Each policy hereunder except Workers Compensation shall be primary insurance to any other insurance available to the Additional Insured and Loss Payee with respect to claims arising hereunder.

I. Liability for Premium. Airline shall be solely responsible for payment of all insurance premiums required hereunder, and City shall not be obligated to pay any premiums.

J. Contractors and Subcontractors.

1. With the exception set forth in Section 10.03.J.2 below, Airline shall contractually require all contractors and subcontractors involved in the provision of any labor, materials or services on, at or within the Leased Premises, to carry insurance naming City as an additional insured and meeting all of the requirements in Sections 10.01, 10.02, and 10.03 hereof, except coverage amount. The coverage amount shall be commensurate with the amount of the particular contract and shall be subject to the approval of the Director. Airline shall provide in its contracts with its contractors and subcontractors that they submit to the Director copies of insurance certificates for the coverages required herein.

2. Airline shall be under no obligation to require its contractors or subcontractors to provide aircraft liability coverage.

3. In connection with the design and construction of any Airline improvements to the Leased Premises, Airline shall require:

a. The architect/engineer to secure Professional Liability coverage with a minimum of \$1,000,000 per occurrence/aggregate if the project construction cost is estimated to exceed \$10,000,000;

b. The construction contractor and/or its subcontractors to secure Builder's Risk coverage equal to the replacement value of the improvements; and

c. The construction contractor and/or its subcontractors to secure Asbestos Abatement liability coverage if the project includes work with asbestos. Such Asbestos Abatement liability insurance shall include coverage for liability arising from the encapsulation, removal, handling, storage, transportation, and disposal of asbestos-containing materials and shall be in a minimum amount of \$1,000,000 combined single limit per occurrence.

K. Proof of Insurance. Within ten (10) days of the Effective Date of this Agreement and at any time during the term of this Agreement, Airline shall furnish the Director with certificates of insurance, along with an affidavit from Airline confirming that the certificates accurately reflect the insurance coverage that will be available during the term. If requested in writing by the Director, Airline shall furnish City with copies of Airline's insurance policies.

Notwithstanding the proof of insurance requirements set forth above, it is the intention of the parties hereto that Airline, continuously and without interruption, maintain in force the required insurance coverages to be carried by Airline set forth above. Airline agrees that City shall never be argued to have waived or be estopped to assert its right to terminate this Agreement hereunder because of any acts or omissions by City regarding its review of insurance documents provided by Airline, its agents, employees, or assigns.

L. City Right to Review and Adjust Coverage Limits. City reserves the right at reasonable intervals during the Term of this Agreement to cause the insurance requirements of this Article X to be reviewed by an independent insurance consultant experienced in insurance for public airports in Texas, taking into consideration changes in statutory law, court decisions, or the claims history of the airline industry as well as that of Airline, and, based on the written recommendations of such consultant, and in consultation with Airline, to reasonably adjust the insurance coverages and limits required herein but not more often than every twelve (12) months.

Article XI

DAMAGE OR DESTRUCTION OF LEASED PREMISES

Section 11.01. Leased Premises Inhabitable

If any of the Leased Premises shall be partially damaged by fire or other casualty, but such Leased Premises remain inhabitable, same will be repaired with due diligence by the City to the condition existing just prior to such casualty, but City's responsibility in this regard shall be limited to the extent of the proceeds of insurance received with respect to such premises and to the extent funds are appropriated for such repair by the City's governing body.

Section 11.02. Leased Premises Uninhabitable

If any of the Leased Premises shall be completely destroyed or partially damaged by fire or other casualty rendering all or a substantial portion of the Leased Premises uninhabitable and it is reasonably estimated by the Director that it will take more than 180 days to repair, Director shall notify Airline in writing within ninety (90) days of such casualty whether the damaged or destroyed Leased Premises will be repaired. If any or all of the Leased Premises is to be repaired, it shall be repaired with due diligence by the City, and the rental allocable to the damaged or destroyed Leased Premises shall be abated for the period from the occurrence of the damage to the substantial completion of the repairs. If the repair period is estimated to exceed 180 days, City shall make good faith efforts to provide Airline with temporary substitute space,

if available, during such period of repair, at a rental rate for comparable space based on the rates and charges principles set forth in this Agreement.

Section 11.03. Automatic Termination

If the City shall fail to notify Airline of its decision as set forth in Section 11.02 above (or gives written notice of its intent not to repair), City shall be deemed to have elected to terminate this Agreement only as to the Leased Premises damaged or destroyed, and the Agreement shall automatically terminate as to such Leased Premises as of the date of the damage or destruction, with no further liability therefor by either City or Airline except those liabilities that accrued, including rent, prior to such damage or destruction.

Section 11.04. Airline Improvements

Airline shall reconstruct all its improvements in the damaged or destroyed Leased Premises necessary for the conduct of Airline's business operations in the manner existing just prior to the casualty, consistent with the City's obligations set forth in Sections 11.01, 11.02 and 11.03.

Section 11.05. Insurance

The Terminal Complex, exclusive of Airline's property, will be insured by City under a policy of fire and extended coverage insurance to the extent of not less than eighty percent (80%) of the insurable value of such property if such percentage of coverage is available. Insurance monies and funds received on account of the damage to or destruction of such property will be applied by the City to the repair, construction, or replacement of such damaged or destroyed property. Premiums paid by the City for insurance provided in compliance herewith shall be included by the City as a part of Airport operation and maintenance expenses.

Article XII

TERMINATION

Section 12.01. Termination by City

City, in addition to any other right of cancellation herein given to it or any other rights to which it may be entitled by law or equity or otherwise, may cancel this Agreement by giving Airline sixty (60) days advance written notice, to be served as hereinafter provided, upon or after the happening of any one or more of the following events, except default in timely payment of any money due City including PFCs, if applicable, for which fifteen (15) days written notice shall be given and except default in providing copies of insurance policies or maintaining required insurance coverages described in Section 10.03K, for which ten (10) days written notice shall be given:

A. The filing by Airline of a voluntary petition in bankruptcy or any assignment for benefit of creditors of all or any part of Airline's assets; or

B. Any institution of proceedings in bankruptcy against Airline and the adjudication of Airline as a bankrupt pursuant to such proceedings; or

C. The taking of jurisdiction by a court of competent jurisdiction of Airline or its assets pursuant to proceedings brought under the provisions of any Federal reorganization act; or

D. The appointment of a receiver or trustee of Airline's assets by a court of competent jurisdiction or by a voluntary agreement with Airline's creditors; or

E. The abandonment by Airline of its conduct of its air transportation business at the Airport and in this connection, suspension of operations for a period of ninety (90) days will be considered abandonment in the absence of an explanation satisfactory to and accepted in writing by the Director; or

F. If Airline shall be prevented for a period of ninety (90) days, after exhausting or abandoning all appeals, by any action of any governmental authority, board, agency or officer having jurisdiction thereof from conducting its air transportation business at the Airport, or it is so prevented from conducting its air transportation business, either by (a) reason of the United States or any agency thereof, acting directly or indirectly, taking possession of, in whole or substantial part, the Leased Premises or premises required for the actual operation of Airline's aircraft to and from the Airport; or (b) if all or a substantial part of the Leased Premises shall be acquired through the process of eminent domain; or

G. The default by Airline in the performance of any covenant, obligation or condition herein required to be performed by Airline and the failure of Airline to remedy such default for a period of thirty (30) days after receipt from City of written notice to remedy the same, except default in timely payment of any money due City under this Agreement, for which a total of fifteen (15) days written notice will be given and except default in providing copies of insurance policies or maintaining required insurance coverages described in Section 10.03K, for which ten (10) days written notice shall be given; provided, however, that no notice of cancellation as above provided shall be of any force or effect if Airline shall have remedied the default prior to receipt of City's notice of cancellation or within the applicable notice period Airline commences the process of remedying the default and diligently prosecutes the same to completion. Failure by City to take any authorized action upon default by Airline of any of the terms, covenants or conditions required to be performed, kept and observed by Airline shall not be construed to be or act as a waiver of said default or of any subsequent default of any of the terms, covenants and conditions herein contained to be performed, kept and observed by Airline. The acceptance of rentals by City from Airline for any period or periods after a default by Airline of any of the terms, covenants and conditions herein required to be performed, kept and observed by Airline shall not be deemed a waiver or estoppel of any right on the part of City to cancel this Agreement for failure by Airline to so perform, keep or observe any of said terms, covenants or conditions.

Section 12.02. Termination by Airline

In addition to any other right of cancellation herein given to Airline or any other rights to which it may be entitled by law, equity, or otherwise, as long as Airline is not in default in payment to City of any amounts due City under this Agreement or otherwise, Airline may cancel this Agreement and thereby terminate all of its rights and un-accrued obligations hereunder by giving City sixty (60) days advance written notice, to be served as hereinafter provided, upon or after the happening of any of the following events:

A. Termination, suspension, revocation or cancellation, by any federal agency with competent jurisdiction of Airline's right or authority to operate as a scheduled air carrier serving the Airport;

B. Issuance by a court of competent jurisdiction of an injunction which in any way substantially prevents or restrains the use of the Airport or any part thereof necessary for Airline's scheduled flight operations and which injunction remains in force for a period of at least thirty (30) days after City has exhausted or abandoned all appeals, if such injunction is not necessitated by or issued as the result of an act or omission of Airline;

C. If, at any time during the term of this Agreement, because of City's failure to provide within a reasonable time safe aircraft operating facilities, the Federal Aviation Administration or its successor fails or refuses to certify the Airport as adequate to accommodate aircraft which Airline is licensed to operate and is operating into and from all other airports of like size and character and with similar facilities and which aircraft are in general use on Airline's scheduled transportation route system; and which Airline may reasonably desire to operate into or from the Airport; provided such refusal or failure is not due to any fault of Airline;

D. The inability of Airline for a continuing period in excess of ninety (90) days to use the Airport or to exercise any rights or privileges granted to Airline hereunder and necessary to its scheduled flight operations because of any law or ordinance by any governmental authority having jurisdiction over the operations of the Airport or Airline, or because of any order, rule, regulation or other action or any non-action of the Federal Aviation Administration, its successor or any other authorized governmental agency; prohibiting such use, or because of earthquake or other casualty (excepting fire), acts of God or the public enemy, and beyond the control of Airline.

E. The default by City in the performance of any covenant or condition within the control of City and herein required to be performed by City and failure of City to use its best efforts to remedy such default for a period of thirty (30) days after receipt from Airline of written notice to remedy the same; provided, however, that no notice of cancellation as above provided shall be of any force or effect if City shall have remedied the default prior to receipt of Airline's notice of cancellation or within the aforesaid thirty (30) day period or during said period commences the process of remedying the same and diligently prosecutes the same to completion.

F. The assumption by the United States Government or any authorized agency thereof of the operation, control or use of the Airport and facilities, or any substantial part thereof, in such a manner as substantially to restrict Airline, for a continuous period of at least ninety (90) days, from operating its air transportation business.

G. Termination, suspension or discontinuation of Airline's services to the Airport by a governmental agency authorized to do so because of a war or national emergency declared by the government. Airline's performance of all or any part of this Agreement for or during any period or periods after a default of the terms, covenants and conditions herein contained to be performed, kept and observed by City shall not be deemed a waiver of any right on the part of Airline to cancel this Agreement for failure by City so to perform, keep or otherwise observe any if the terms, covenants or conditions hereof to be performed, kept and observed by City, or be construed to be or act as a waiver by Airline of said default or of any subsequent default of any of said terms, covenants and conditions herein contained and to be performed, kept and observed by City.

H. In any event where the usage of the Airport by Airline is materially affected as provided in this Section 12.02, and whether or not Airline is entitled to cancel this Agreement as herein provided, while such event is continuing, an equitable adjustment to the rentals herein required to be paid by Airline shall be made by City, as are determined to be reasonable by City in its sole judgment.

Article XIII

ASSIGNMENT AND SUBLETTING

Section 13.01. Assignment and Subletting

A. Airline shall not at any time assign this Agreement in whole or in part without the prior written consent of the Director; provided, however, that the foregoing shall not prevent the assignment of this Agreement to any corporation with which Airline may merge or consolidate or which may succeed to the business of Airline and provided further that, in connection with any such requested assignment, Airline may request City to release the assigned portion of said Leased Premises from this Agreement and to relieve Airline of rental obligation therefor. In the event City fails or refuses to approve such request and relief, Airline may then assign all or a portion of the Leased Premises to another air transportation company or companies that have executed an airport use and lease agreement with City.

B. Airline may sublet all or any part of the Leased Premises only after obtaining the prior written consent of the Director, but if an event of default shall occur and be continuing under this Agreement, City may collect rent from such sub-lessee or occupant and apply the amount collected to the extent possible to satisfy the obligations of Airline hereunder, but no such collection shall be deemed a waiver by the City of the covenants contained herein or the acceptance by the City of such sub-lessee or occupant as a successor to Airline or a release of Airline by City from its obligations hereunder.

C. All of the terms, provisions, covenants, stipulations, conditions and consideration in this Agreement shall extend to and bind the legal representatives, successors, sub-lessees, and assigns of the respective parties hereto.

Article XIV

MISCELLANEOUS PROVISIONS

Section 14.01. Rules and Regulations

Subject to Section 14.02E, from time to time the Director may adopt and enforce rules and regulations with respect to the occupancy and use of the Airport, its services and facilities, by persons, vehicles, aircraft and equipment that in his opinion will reasonably insure the safe, efficient, and economically practicable operation thereof and provide for the safety and convenience of those using the Airport, and to protect the Airport and its facilities and the public from damage or injury resulting from operations on, into and from the Airport. Airline agrees to observe and obey any and all rules and regulations as are currently in place and as may be reasonably established from time to time, and to require its officers, agents, employees, contractors, and suppliers, to observe and obey the same. City reserves the right to deny access to the Airport or its facilities to any person, firm or corporation that fails or refuses to obey and comply with such rules and regulations. Such rules and regulations of the Airport will not be inconsistent with the terms of this Agreement nor with valid rules, regulations, orders and procedures of the Federal Aviation Administration or any other government agency duly authorized to make or enforce rules and regulations for the operation of the Airport and the operation of aircraft using the Airport. Airline, upon written request to the Director, shall be furnished (at the notice address provided herein and to Airline's on-Airport manager) a current copy of any such Airport rules or regulations and any amendments thereto.

Section 14.02. Compliance with Law

A. **General.** Airline shall not use the Airport or any part thereof, or knowingly permit the same to be used by any of its employees, officers, agents, subtenants, contractors, invitees, or licensees for any illegal purposes and shall, at all times during the Term of this Agreement, comply with all applicable regulations, ordinances, and laws of the City, the State of Texas, or the Federal Government, and of any governmental bodies which may have jurisdiction over the Airport. Nothing in this Section 14.02 shall modify the provisions of Section 14.01 or limit Airline's rights thereunder.

B. **Compliance with Statutes, Ordinances and Regulations.** At all times during the term of this Agreement, Airline shall, in connection with its activities and operations at the Airport:

1. Comply with and conform to all applicable present and future statutes and ordinances, and regulations promulgated thereunder, of all Federal, State, and other government bodies of competent jurisdiction that apply to or affect, either directly or indirectly, Airline or

Airline's operations and activities under this Agreement. Airline shall comply with all applicable provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. Section 12101), as may be amended from time to time, and federal regulations promulgated thereunder that may be made applicable as a result of construction activities conducted by Airline.

2. Subject to prior written approval of the Director, make, at its own expense, all non-structural improvements, repairs, and alterations to its Exclusive Use Space, equipment, and personal property that are required to comply with or conform to any of such statutes, ordinances, or regulations (subject to Section 14.01).

3. As respects the City, be and remain an independent contractor with respect to all installations, construction, and services performed by or on behalf of Airline hereunder.

C. Compliance with Environmental Laws.

1. Airline shall comply with all federal, state, local statutes, ordinances, regulations, rules, policies, codes or guidelines now or hereafter in effect, as same may be amended from time to time, which govern Hazardous Materials or relate to the protection of human health, safety or the environment, applicability of which are invoked by the conduct of Airline's business operations at the Airport and shall include but not be limited to: the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. Section 136 et seq.; the Safe Drinking Water Act, 42 U.S.C. Section 300(f) et seq.; the Oil Pollution Control Act of 1990, 33 U.S.C. Section 270 et seq.; the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C., Section 9601 et seq.; and as amended by the Superfund Amendments and Reauthorization Act of 1986, Pub. Law No. 99-499, 100 Stat. 1613; the Toxic Substances Control Act, 15 U.S.C., Section 2601 et seq.; the Clean Air Act, 42 U.S.C. 7401 et seq.; the Clean Water Act, 33 U.S.C., Section 1251, et seq.; the Hazardous Materials Transportation Act, 49 U.S.C., Section 1801 et. seq.; the Resource Conservation and Recovery Act, 42 U.S.C., Section 6901 et seq.; or their State counterparts; and all substances defined as hazardous waste or as hazardous substances under the laws of Texas and/or the United States or in regulations promulgated pursuant to such laws (collectively, "Environmental Laws").

2. Any fines, penalties, or remediation costs that may be levied against the City by the Environmental Protection Agency or the Texas Natural Resource Conservation Commission or any other governmental agency for Airline's failure to comply with the Environmental Laws as required herein shall be reimbursed to the City by Airline within twenty-one (21) days of receipt of an invoice from City for such fines or penalties.

3. Airline shall prevent the presence, use, generation, release, omission, discharge, storage, disposal or transportation of any Hazardous Materials by Airline on, under, in, above, to or from the Airport or any other areas or facilities subject to this Agreement, other than in strict compliance with all Environmental Laws.

4. Airline acknowledges that the Airport is subject to the National Pollutant Discharge Elimination System program ("NPDES") and its regulations relating to stormwater discharges, 40 CFR Part 122, for operations that occur at the Airport. Airline further

acknowledges that it is familiar with these NPDES stormwater regulations, that it will conduct operations at the Airport in compliance with 40 CFR Part 122 or any applicable NPDES permit, as either may be amended from time to time.

5. City and Airline both acknowledge that close cooperation is necessary to ensure compliance with any NPDES stormwater discharge permit, as well as to ensure safety and to minimize costs. Airline acknowledges that it may be necessary to undertake to minimize the exposure of stormwater to materials generated, stored, handled or otherwise used by Airline as defined in the federal stormwater regulations, by implementing and maintaining "Best Management Practices" as defined in 40 CFR, Part 122.2 and as implemented in any applicable NPDES permit, as either may be amended from time to time.

6. Airline acknowledges that City's NPDES stormwater discharge permit and any subsequent amendments, extensions or renewals thereto, to the extent affecting Airline's operations at the Airport, is incorporated by reference into this Agreement. Airline agrees to be bound by all applicable portions of said permit. City shall promptly notify Airline of any changes to any portions of said permit applicable to, or that affect, Airline's operations.

7. City shall provide Airline with written notice of those NPDES stormwater discharge permit requirements (including any modifications thereto) that Airline shall be obligated to perform from time to time at the Airport, including, but not limited to: certification of non-stormwater discharges; collection of stormwater samples; preparation of stormwater pollution prevention or similar plans; implementation of "good housekeeping" measures or Best Management Practices; and maintenance of necessary records. Such written notice shall include applicable deadlines. Airline, within fifteen (15) days of receipt of such written notice, shall notify City in writing if it disputes any of the NPDES stormwater discharge permit requirements it is being directed to undertake. If Airline does not provide such timely notice, it is deemed to assent to undertake such requirements. If Airline provides City with written notice, as required above, that it disputes such NPDES stormwater discharge permit requirements, City and Airline agree to negotiate a prompt resolution of their differences. Airline warrants that it will not object to City notices required pursuant to this paragraph unless Airline has a good faith basis to do so.

8. City and Airline agree to provide each other upon request, with any non-privileged information collected and submitted to any governmental entity (ies) pursuant to applicable NPDES stormwater regulations.

9. Airline agrees to participate in any reasonable manner requested by the City in any City organized task force or other work group established to coordinate stormwater activities at the Airport.

10. Upon reasonable notice based on the circumstances and without materially disrupting Airline's operations (except in case of emergencies when notice shall not be required), City shall have the right at any time and from time to time to enter upon Airline's Leased Premises for purposes of inspection to ensure that Airline is complying with this Section 14.02.C. without such inspection constituting a trespass.

11. All such remedies of City with regard to environmental requirements as set forth herein shall be deemed cumulative in nature and shall survive termination of this Agreement.

D. INDEMNIFICATION. AIRLINE SHALL PROTECT, DEFEND, INDEMNIFY, AND HOLD HARMLESS CITY AND ITS OFFICERS, AGENTS, AND EMPLOYEES FROM AND AGAINST ANY LOSS, COST, CLAIM (INCLUDING CLAIMS FOR REMEDIATION COSTS OR IN KIND REMEDIATION), DEMAND, PENALTY, FINE, LIABILITY AND EXPENSE (INCLUDING BUT NOT LIMITED TO ATTORNEYS' AND CONSULTANTS' FEES, COURT COSTS AND LITIGATION EXPENSES) AND HEREAFTER REFERRED TO AS "LIABILITY" FROM WHOMEVER RECEIVED, WHETHER A PRIVATE PERSON OR GOVERNMENTAL ENTITY RELATED TO:

1. AIRLINE'S USE OR THE PRESENCE CAUSED BY AIRLINE OF HAZARDOUS MATERIALS OF WHATEVER KIND OR NATURE, KNOWN OR UNKNOWN, CONTINGENT OR OTHERWISE ON THE AIRPORT, WHICH LIABILITY MAY ARISE OUT OF ANY INVESTIGATION, MONITORING, CLEANUP, CONTAINMENT, REMOVAL, STORAGE OR RESTORATION WORK REQUIRED OR INCURRED HEREUNDER BY CITY OR ANY OTHER ENTITY OR PERSON IN A REASONABLE BELIEF THAT SUCH WORK IS REQUIRED BY ANY APPLICABLE ENVIRONMENTAL LAW;

2. ANY ACTUAL, THREATENED, OR ALLEGED CONTAMINATION BY HAZARDOUS MATERIALS ON THE AIRPORT PREMISES BY AIRLINE OR ITS AGENTS;

3. THE DISPOSAL, RELEASE OR THREATENED RELEASE OF HAZARDOUS MATERIALS BY AIRLINE OR ITS AGENTS AT THE AIRPORT THAT IS ON, FROM, OR AFFECTS SOIL, AIR, WATER, VEGETATION, BUILDINGS, PERSONAL PROPERTY, OR PERSONS;

4. ANY PERSONAL INJURY, DEATH OR PROPERTY DAMAGE (REAL OR PERSONAL) ARISING OUT OF OR RELATED TO HAZARDOUS MATERIALS USED (INCLUDING STORAGE OR DISPOSAL) BY AIRLINE AT THE AIRPORT; OR

5. ANY VIOLATION BY AIRLINE OF ENVIRONMENTAL LAWS; PROVIDED, HOWEVER, THAT THE FOREGOING INDEMNITY SHALL NOT BE APPLICABLE TO LOSSES, COSTS, EXPENSES, CLAIMS, DEMANDS, PENALTIES, FINES, SETTLEMENTS, LIABILITIES AND EXPENSES RESULTING FROM CONDITIONS EXISTING AS OF THE EFFECTIVE DATE OF THIS AGREEMENT AND WHICH SUCH CONDITIONS ARE NOT THE RESULT OF ANY OPERATIONS, ACTIVITIES, ACTIONS OR INACTIONS OF AIRLINE OR ITS AGENTS, OR WHICH ARE CAUSED SOLELY BY CITY OR ITS AGENTS.

E. Federal Preemption. Notwithstanding any provisions of the rules and regulations, any requirement in such rules or regulations shall not apply to Airline to the extent that such rules or regulations would otherwise be preempted by the Airline Deregulation Act (49 U.S.C. § 41713).

F. Airline shall not be responsible in any way for any Hazardous Materials that exist on the Airport, the presence of which was not caused by Airline. In the event that any such

presence of Hazardous Materials not caused by Airline results in Airline being substantially deprived of the use or benefit of any material portion of the Leased Premises, City agrees to use its best efforts to provide replacement space for Airline during the period of such deprivation or to abate the rent due hereunder in an equitable manner.

Section 14.03. Nondiscrimination

A. General. In the use and occupation of the Airport, Airline shall not unlawfully discriminate against any person or class of persons by reason of race, color, religion, sex, national origin or ancestry, age, or physical or mental handicap.

B. Civil/Human Rights Laws. In its operations at the Airport and in its use of the Airport, Airline shall not, on the grounds of race, color, religion, sex, national origin or ancestry, or age, discriminate or permit discrimination against any person or group of persons in any manner prohibited by Part 21 of the Federal Aviation Regulations, the Civil Rights Act of 1964, as amended, the Equal Pay Act of 1963, the Rehabilitation Act of 1973, and Section 15-17 of the City's Code of Ordinances. Without limiting the generality of the foregoing, Airline agrees to not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin or ancestry, or age. Airline agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, national origin or ancestry, age, or physical or mental handicap. Such action shall include, but not be limited to: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; selection for training; and disciplinary actions and grievances. Airline agrees to post, in conspicuous places available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

C. USDOT Requirements. Airline, for itself, its successors in interest, and assigns, as a part of the consideration of this Agreement, does hereby covenant and agree that, in the event improvements are constructed, maintained, or otherwise operated on the Airport for a purpose for which a United States Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, Airline shall maintain and operate such improvements and services in compliance with all other requirements imposed pursuant to 49 CFR, Part 21 (Non-discrimination in Federally Assisted Programs of the Department of Transportation), as said regulations may be amended.

Airline, for itself, its heirs, personal representatives, successors in interest, and assigns, as a part of the consideration of this Agreement, does hereby covenant and agree that: (1) no person on the grounds of race, color, religion, sex, national origin or ancestry, or age, shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination in the use of said improvements; (2) that in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the grounds of race, color, religion, sex, national origin or ancestry, or age, shall be excluded from participation in, denied the benefits of, or otherwise be subjected to unlawful discrimination; (3) that Airline shall use the Airport facilities in compliance with all other requirements imposed by, or pursuant to, 49 CFR, Part 21 (Non-discrimination in Federally Assisted Programs of the Department of

Transportation), as said regulations may be amended; and (4) Airline assures that it will undertake an affirmative action program as required by 14 CFR, Part 152, Subpart E, Non-discrimination Airport in Aid Program, to ensure that no person shall on the grounds of race, color, religion, national origin or ancestry, sex, age, or physical or mental handicap be excluded from participating in any employment activities covered in 14 CFR, Part 152, Subpart E, or such employment activities covered in Section 15-17 of the City's Code of Ordinances. Airline assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this Section 14.03. Airline assures that it will require that any covered sub-organization similarly will undertake affirmative action programs and that the sub-organization will require assurance from the sub-organization's sub-organization, as required by 14 CFR, Part 152, Subpart E, to the same affect.

Section 14.04. Payment of Taxes

Airline shall pay all taxes that may be levied, assessed or charged upon Airline or its property located on the Airport by the State of Texas or any of its political subdivisions or municipal corporations, and shall obtain and pay for all licenses and permits required by law. However, Airline shall have the right to contest, in good faith, the validity or application of any such tax, license or permit and shall not be considered in default hereunder as long as such contest is in progress. Further, Airline agrees to diligently prosecute such contest.

Section 14.05. Right to Lease to United States Government

During time of war or national emergency City shall have the right to lease the Airport landing area or any part thereof to the United States Government for use by the Armed Forces and, if any such lease is executed, the provisions of this Agreement insofar as they are inconsistent with the provisions of the lease to the Government shall be suspended; however, such suspension shall not extend the term of this Agreement. If, as a result of any such lease, the rights or duties of Airline hereunder are materially affected, then Airline shall receive an equitable rental adjustment.

Section 14.06. Notice or Consent

Any notice or consent required herein to be obtained from or given by City (or Director) may be given by Director unless otherwise provided. Consent of City or Airline when required herein shall not be unreasonably withheld, delayed or conditioned.

Section 14.07. Rights Reserved to City

Nothing contained herein shall unlawfully impair the right of City to exercise its governmental or legislative functions. This Agreement is made subject to the Constitution and laws of the State of Texas and to the Charter of the City of Houston, Texas, and to the provisions of the Airport Improvement Program Grant Agreements applicable to the Airport and its operation, and the provisions of such agreements, insofar as they are applicable to the terms and provisions of this Agreement, shall be considered a part hereof to the same extent as though copied herein at length to the extent, but only to the extent, that the provisions of any such

agreements are required generally by the United States at other civil airports receiving federal funds. To the best of the City's knowledge, nothing contained in such laws or agreements conflicts with the express provisions of this Agreement.

Section 14.08. Favored Nations

City covenants and agrees not to enter into any agreement with any airline that makes substantially similar use of the Airport, which agreement contains more favorable terms than this Agreement. City further covenants and agrees not to grant to any such airline rights or privileges with respect to the Airport which are not afforded to Airline hereunder unless substantially the same terms, rights, privileges and facilities are concurrently made available to Airline.

Section 14.09. Notices

Except notices required under Sections 14.02.C.10 and 14.01 herein where notice shall be acceptable if given either in writing or verbally to Airline's designated representative, or his/her designee, notices to City and/or Airline provided for herein shall be deemed sufficiently given when delivered or when mailed by overnight express delivery, or certified or registered mail, postage prepaid, or when given by telephone immediately confirmed in writing by facsimile (or other communications device acceptable to the party) as follows or to such other address, telephone or facsimile number as a party may from time to time designate in writing to the other party hereto:

To City:

Director of Aviation
Houston Airport System
16930 J.F. Kennedy Boulevard

Houston, Texas 77032
Telephone: (281) 233-1877
Facsimile: (281) 233-1864

To Airline:

(When Delivered)

~~Director Airport Affairs
Southwest Airlines HDQ 4PF
2702 Love Field Drive
Dallas, TX 75235
Telephone: (214) 792-4480
Facsimile: (214) 792-4086~~

(When Mailed)

~~Director Airport Affairs
Southwest Airlines HDQ 4PF
P. O. Box 36611
Dallas, TX 75235-1611
Telephone: (214) 792-4480
Facsimile: (214) 792-4086~~

INSERT APPLICABLE AIRLINE'S ADDRESS

Section 14.10. City's Right to Audit Books and Records

Airline agrees to keep books and records on its operations at the Airport and the Director or any other authorized City representative upon reasonable advance written notice to Airline shall have the right to inspect and audit such books and records to ensure compliance with the prevailing municipal bond disclosure requirements and to determine that City has received from Airline all moneys due the City under the terms hereof including, but not limited to, the rentals and fees and PFCs (if applicable) payable to Airport by Airline.

Section 14.11. Force Majeure

Neither City nor Airline shall be deemed in violation of this Agreement if it is prevented from performing any of its obligations hereunder by reason of strikes, boycotts, labor disputes, embargoes, shortage of material, acts of God, acts of the public enemy, acts of superior governmental authority, weather conditions, tides, riots, rebellion, sabotage, or any other circumstances for which it is not responsible or which is not in its control; provided, however, that these provisions shall not excuse Airline from paying the rentals and fees hereinbefore specified in Article V.

Section 14.12. Non-Waiver

The acceptance of fees by City for any period or periods after a default of any of the terms, covenants and conditions herein contained to be performed, kept and observed by Airline, shall not be deemed a waiver of any right on the part of City to terminate this Agreement pursuant to Article XII herein.

Section 14.13. Place of Payments

All payments required of the Airline by this Agreement shall be made payable to the City of Houston and shall be mailed to the office of the Director, Houston Airport System, City of Houston, P.O. Box 60106, George Bush Intercontinental Airport, Houston, Texas 77205-0106, or to such other officer or address as may be substituted therefor in writing to Airline by the Director.

Section 14.14. Non-liability of Individuals

No director, officer, agent or employee of either party shall be charged personally or held contractually liable by or to the other party under any term or provision of this Agreement or because of any breach thereof or because of its or their execution or attempted execution.

Section 14.15. Remedies to be Nonexclusive

All remedies provided in this Agreement shall be deemed cumulative and additional and not in lieu of or exclusive of each other or of any other remedy available to City or Airline at law or in equity (to the extent not inconsistent with the express provisions hereof) and the exercise of

any remedy or the existence herein of other remedies or indemnities shall not prevent the exercise of any other remedy.

Section 14.16. Exclusiveness of Airline's Rights

Nothing herein contained shall be deemed to grant to Airline any exclusive right or privilege within the meaning of Section 308 of the Federal Aviation Act for the conduct of any activity on the Airport, except that, subject to the terms and provisions hereof, Airline shall have the right to exclusive possession of the Exclusive Use Space leased to Airline under the provisions of this Agreement.

Section 14.17. Other Land and Buildings Excluded

It is agreed and understood that it is not intended by this Agreement or any exhibit hereto to lease any building, space or area, or set any rental rates for any building, space or area, other than what is specifically described herein.

Section 14.18. Titles

The titles of the several articles of this Agreement are inserted herein for convenience only and are not intended and shall not be construed to affect in any manner the terms and provisions hereof or the interpretation or construction thereof.

Section 14.19. Invalid Provisions

In the event any covenant, condition or provision herein contained is held to be invalid by a court of competent jurisdiction, the invalidity of any such covenant, condition or provision shall in no way affect any other covenant, condition, or provision herein contained, provided the invalidity of any such covenant, condition or provision does not materially prejudice either City or Airline in its respective rights and obligations contained in the valid covenants, conditions and provisions of this agreement.

Section 14.20. Enforcement

The City Attorney or his or her designee shall have the right to enforce all legal rights and obligations under this Agreement without further authorization. Airline covenants to provide to the City Attorney all documents and records that the City Attorney reasonably requests to assist in determining Airline's compliance with this Agreement when a good faith basis exists for the belief that Airline is not in compliance with this Agreement, with the exception of those documents made confidential by federal or state law or regulations and provided that the provision of such documents and records by Airline shall be further limited in any respect that the provision of any documents or records of City pertaining to this Agreement would be limited pursuant to Chapter 552, Texas Government Code, as amended or otherwise.

Section 14.21. Operation of Airport

City agrees to maintain and operate the Airport in accordance with all applicable standards, rules and regulations of the Federal Aviation Administration or its successor. City shall exercise its rights hereunder and otherwise operate the Airport with due regard for the operational requirements and long-term interests of the airlines and the interests of traveling public, in a manner that is consistent with applicable law, federal aviation regulation, federal grant assurances, and City airport revenue bond ordinances.

Section 14.22. Modification of Agreement

A. Entire Agreement. This Agreement constitutes the entire Agreement of the parties on the subject matter hereof and may not be changed, modified, discharged or extended except by written instrument duly executed by City and Airline. Airline agrees that no representations or grant of rights or privileges shall be binding upon City unless expressed in writing in this Agreement.

B. Exhibits Modified Without Formal Amendment. Notwithstanding anything in this Agreement to the contrary, the Parties may, with mutual agreement substitute any exhibit hereto without the need of formal amendment of this Agreement. The Parties acknowledge that new AutoCAD drawings of the Terminal Complex may result in an increase or decrease of square footage, necessitating the modification of exhibits.

Section 14.23. Successors and Assigns

The provisions of this Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto; provided, however, this provision shall in no way whatsoever alter the restriction herein regarding assignment and subletting by Airline.

Section 14.24. Subordination

City agrees that the Director, in his discretion, and subject to approval of the City Attorney, shall be permitted to, from time to time, execute any agreement providing for the subordination of any statutory or constitutional landlord's lien over any of Airline's property acquired in connection with any bona fide, third party purchase money equipment (or other personal property) financing (whether through a sale leaseback financing or other equipment lease financing transaction), it being further agreed that the financing of costs expended by Airline for the purchase of equipment or personal property within twelve (12) months prior to such financing transaction shall be considered purchase money financing hereunder; provided, however, that such subordination shall be limited to Airline's property that is financed or refinanced in such transaction.

Section 14.25. Bond Ordinance

The City's covenants described in this Agreement are in all respects subject and subordinate to any and all City's covenants set forth in the Bond Ordinances applicable to the Airport and to any other Bond Ordinances which should amend, supplement or replace same.

Section 14.26. Federal Grant Assurances

Federal law requires that sponsors of public airports accepting Airport Improvement Program ("AIP") grants agree to comply with all federal grant assurances (*see* 49 U.S.C. §47107). Under the AIP, the City has entered into agreements with the FAA and has agreed to specific federal obligations, including without limitation the obligations related to economic nondiscrimination, the use of airport revenue, and maintenance of a self-sustaining rate structure. Accordingly, Airline covenants and agrees that this Agreement in all respects shall be subordinated to the City's obligations to comply with federal law, FAA regulation, and its grant assurance obligations for existing or future grants. Airline agrees to take no action that could place the City in violation of its grant assurance obligations even if such action is otherwise permitted under this Agreement.

Section 14.27. Controlling Provisions

In the event of a conflict in the provisions of this Agreement with any other related documents, ~~including the MOA~~ and other airport rules and regulations, the provisions of this Agreement shall control.

[REMAINDER OF THIS PAGE LEFT INTENTIONALLY BLANK]

EXECUTED in multiple counterparts by the Parties, each of which is deemed to be an original.

ATTEST:

CITY OF HOUSTON:

City Secretary

By: _____
Mayor

ATTEST:

~~**SOUTHWEST AIRLINES CO.**~~

Secretary

By: _____
Federal Tax ID _____

Print: _____
~~Vice President Airport Affairs Title~~

APPROVED:

COUNTERSIGNED:

Mario C. Diaz
Director, Houston Airport System

By: _____
City Controller

APPROVED AS TO FORM:

DATE COUNTERSIGNED:

Sr. Assistant City Attorney

ATTACHMENT VI

(Agreement for Donation and Assignment Between City and Southwest Airlines Co. Effective March 22, 2013)

C75230
NCA

AGREEMENT FOR DONATION AND ASSIGNMENT

by and between

CITY OF HOUSTON

and

SOUTHWEST AIRLINES CO.

AGREEMENT FOR DONATION AND ASSIGNMENT

THE STATE OF TEXAS)(

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF HARRIS)(

THAT, this **AGREEMENT FOR DONATION AND ASSIGNMENT** ("Agreement") is made and entered into on the date of countersignature by the City Controller ("Effective Date") by and between the **CITY OF HOUSTON, TEXAS** a home-rule city principally situated in Harris County (hereinafter defined and referred to as "City") and **SOUTHWEST AIRLINES CO.**, a corporation doing business in the State of Texas (hereinafter defined and referred to as "Southwest"), (the "Parties").

WITNESSETH:

WHEREAS, City is a political subdivision of the State of Texas and is the owner of the William P. Hobby Airport (hereinafter defined and referred to as "Airport"), which is located in the City of Houston, Harris County, Texas; and

WHEREAS, Southwest is engaged in the business of commercial air transportation of persons, property, cargo, and mail as a scheduled air carrier and is certificated or otherwise authorized by the United States Government to engage in such business; and

WHEREAS, the Parties have agreed to cooperate in the design and construction of new improvements in furtherance of the William P. Hobby Airport International Expansion Project (the "Project"), as contemplated in that Memorandum of Agreement Hobby International Expansion Project by and between the City and Southwest, countersigned by the City Controller on June 5, 2012 (the "MOA") and that certain Airport Use and Lease Agreement by and between the City and Southwest countersigned by the City Controller on February 19, 2013 (the "Airport Use and Lease Agreement"); and

WHEREAS, the Project will be constructed at the Airport and will be owned by the City; and

WHEREAS, in connection with the construction of the Project at the Airport, Southwest has acquired or will acquire from third parties items of tangible personal property, fixtures, and services (collectively, "Purchased Items" except that for purposes of this Agreement, Purchased Items does not include items purchased for the hydrant system extension referred to in section 4.3 of the MOA); and

WHEREAS, Southwest has acquired or will acquire the Purchased Items pursuant to various construction contracts ("Project Contracts"); and

WHEREAS, Southwest has donated or will donate and convey all right, title, and interest in any Purchased Items acquired pursuant to the Project Contracts to City immediately upon acquisition of such Purchased Items in accordance with the Airport Use and Lease Agreement; and

WHEREAS, Southwest has acquired or will acquire the Purchased Items under the Project Contracts for the sole purpose of immediately donating such Purchased Items to City and neither Southwest nor the contractor or vendor (as the case may be) will make any intervening use of any Purchased Items; and

WHEREAS, Southwest has issued or will issue exemption certificates pursuant to section 151.155 of the Texas Tax Code relating to the purchase of any Purchased Items under the Project Contracts, and the City has issued or will issue an exemption certificate pursuant to section 151.309 of the Texas Tax Code relating to taxable items sold, leased, or rented to, or stored, used, or consumed by governmental entities.

NOW, THEREFORE, for and in consideration of the mutual covenants herein contained, it is agreed and understood by and between the City and Southwest as follows:

SECTION 1. GRANT AND CONVEYANCE

To the extent not already conveyed, Southwest by means of this Agreement grants and conveys to City all right, title, and interest that Southwest may have in the Purchased Items pursuant to the Project Contracts, such transfer of title to be effective before the Purchased Items are used by either Southwest or the contractor. Such conveyance is subject to the warranties contained in Section 7.01(G) of the Airport Use and Lease Agreement.

SECTION 2. AGREEMENT TO DELIVER PURCHASED ITEMS

When the Purchased Items come into the possession of Southwest pursuant to the Project Contracts, Southwest will immediately deliver all such Purchased Items to City, and neither Southwest nor the contractor or vendor (as the case may be) will make any intervening use of any such Purchased Items. If any Purchased Items consist of separately identified supplies that will be consumed in the construction of the Project but will not be incorporated into the Project ("Consumable Supplies"), then Southwest will, to the extent feasible, cause such Consumable Supplies to be immediately marked and labeled as the property of City upon delivery to the Project construction site.

SECTION 3. AGREEMENT TO ACCEPT DELIVERY OF PURCHASED ITEMS

As and when the Purchased Items are donated and delivered to City by Southwest pursuant to the terms and conditions of this Agreement, City will accept delivery of the Purchased Items.

SECTION 4. NO ASSUMPTION OF LIABILITIES BY CITY WITH RESPECT TO PURCHASED ITEMS

Except as otherwise set forth in any agreement governing City's contribution, City does not assume any liability, under the Project Contracts or otherwise, to pay for the acquisition of any of the Purchased Items at any time, and nothing in this Agreement shall operate to impose any such liability on the City. Correspondingly, any liability of Southwest under the Project Contracts shall not be affected by this Agreement.

SECTION 5. WARRANTY

The conveyances made pursuant to this Agreement shall be subject to the warranties and indemnities contained in Sections 7.01(G) and (K) of the Airport Use and Lease Agreement.

SECTION 6. SUCCESSORS AND ASSIGNS

This Agreement shall be binding upon and inure to the benefit of the Parties hereto, and on their respective successors and assigns.

SECTION 7. PERFORMANCE, VENUE, AND GOVERNING LAW

The obligations of the Parties to this Agreement shall be performable in Harris County, Texas, and if legal action is necessary in connection with or to enforce rights under this Agreement, exclusive venue shall lie in Harris County, Texas. This Agreement shall be governed by, and construed in accordance with, the laws and court decisions of the State of Texas, without regard to conflict of laws or choice of law principles of Texas or of any other state.

SECTION 8. ENTIRE AGREEMENT; NO ORAL MODIFICATIONS

This Agreement (with all referenced exhibits, attachments, and provisions incorporated by reference) embodies the entire agreement of both Parties, superseding all oral or written previous and contemporary agreements between the Parties relating to matters set forth in this Agreement. This Agreement may be changed only by an agreement in writing signed by all of the Parties to this Agreement.

SECTION 9. FURTHER ASSURANCES

Southwest hereby agrees that, from time to time, at the request of the City and without further consideration, it will execute and deliver to the City such other deeds, bills of sale, instruments of conveyance, assignment and transfer, and notices, affidavits and acknowledgements, and take such action as the City may reasonably require to effectively convey, transfer, and assign to the City, and to put the City in possession of, the Purchased Items.

SECTION 10. AIRPORT USE AND LEASE AGREEMENT

This Agreement is subject to the terms, conditions, warranties and indemnities contained in the Airport Use and Lease Agreement which are hereby incorporated into this Agreement. In the

event of a conflict between any terms of this Agreement and any terms contained in the Airport Use and Lease Agreement, the terms of the airport Use and Lease Agreement, other than with respect to Section 5 hereof, shall govern.

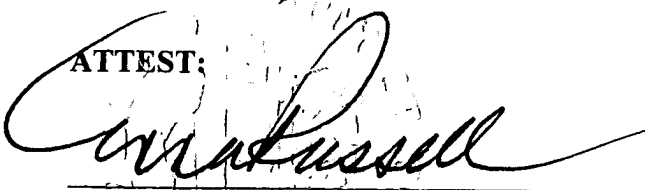
SECTION 11. HEADINGS

The section headings contained in this Agreement are for convenience of reference only and are not intended to define or limit the scope of any provisions of this Agreement.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]

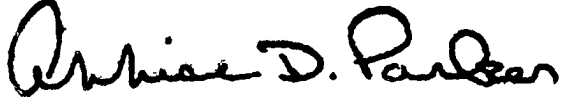
This Agreement may be executed by the Parties in multiple counterparts, each of which is deemed an original.


ATTEST:



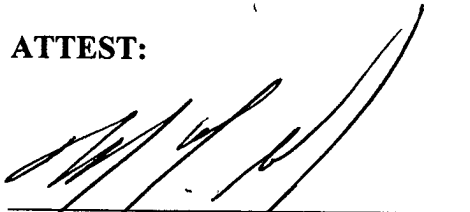
City Secretary

CITY OF HOUSTON:

By: 

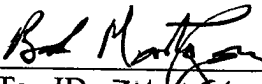
Mayor 

ATTEST:



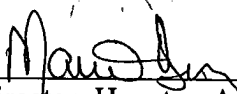
Secretary

SOUTHWEST AIRLINES CO.

By: 

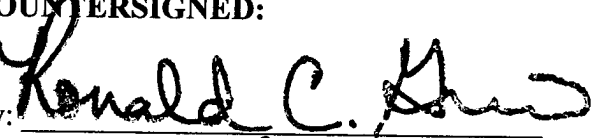
Federal Tax ID 74-156-3240
Print: Bob Montgomery
Vice President Airport Affairs


APPROVED:



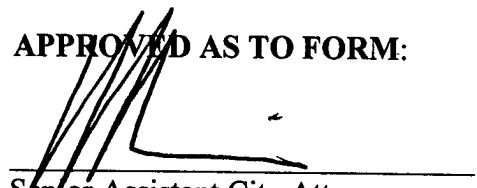
Director, Houston Airport System

COUNTERSIGNED:

By: 

City Controller 

APPROVED AS TO FORM:



Senior Assistant City Attorney
L.D. No. 004130056001

DATE COUNTERSIGNED:

3-22-13

ATTACHMENT VII

**(Conceptual Drawings for International Expansion Project by
Southwest Airlines Co. at William P. Hobby Airport)**

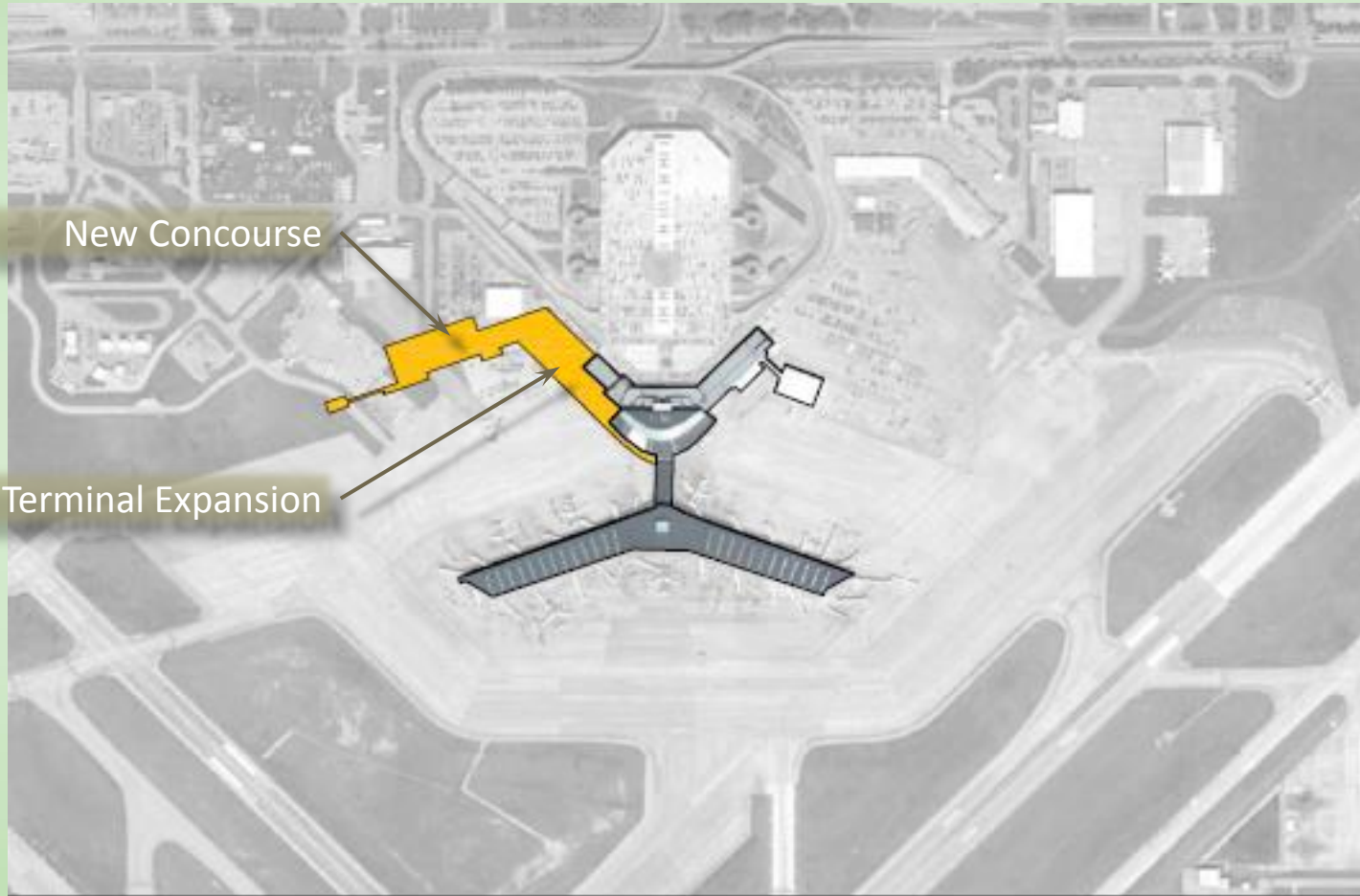
International Concourse & FIS Plan at HOU

Attachment VII



Terminal Plan Concept

Attachment VII



New Concourse

Terminal Expansion

Floor Plan, Apron Level

Attachment VII

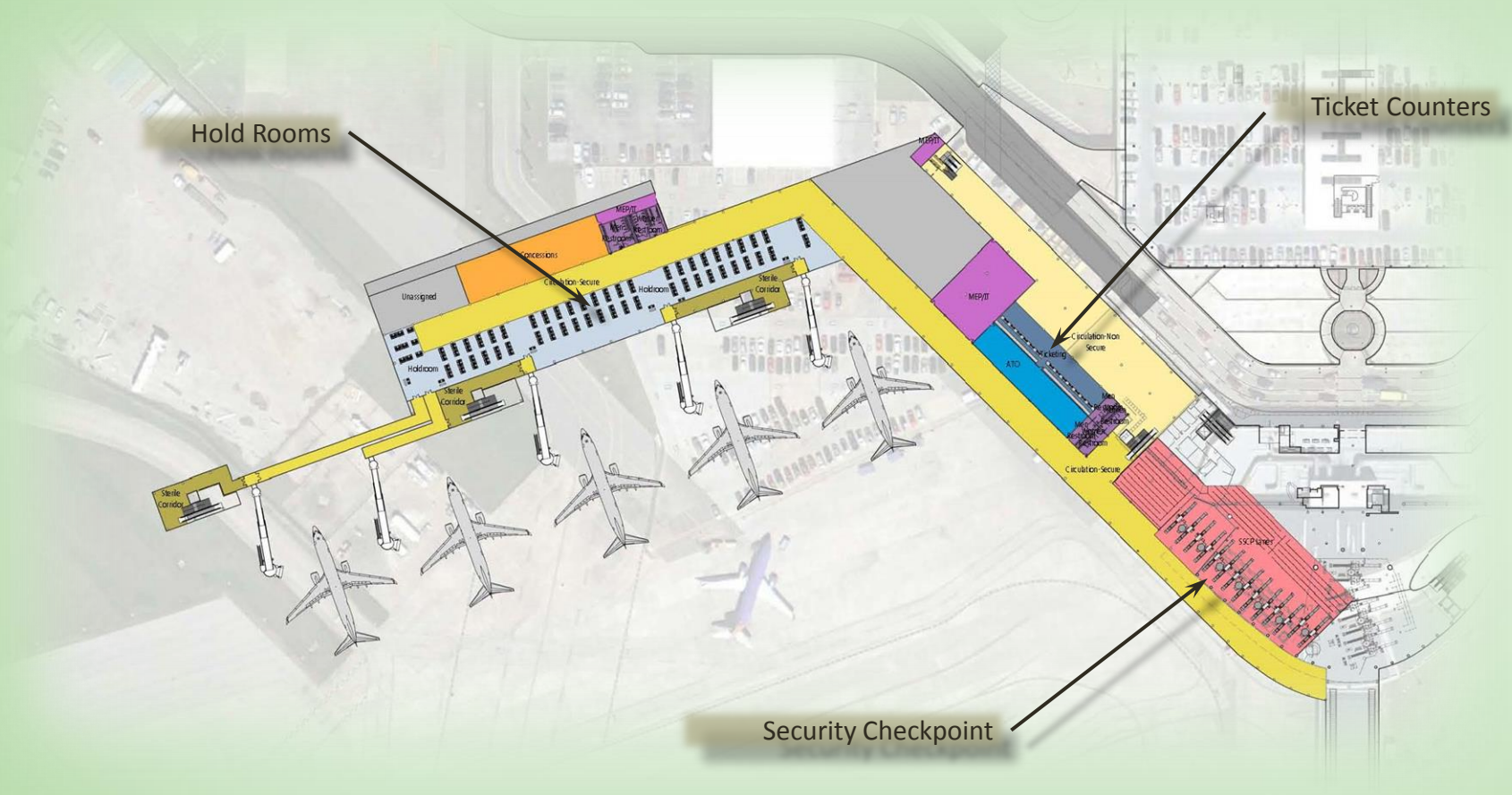
International Baggage Claim

Primary/Passport Inspection



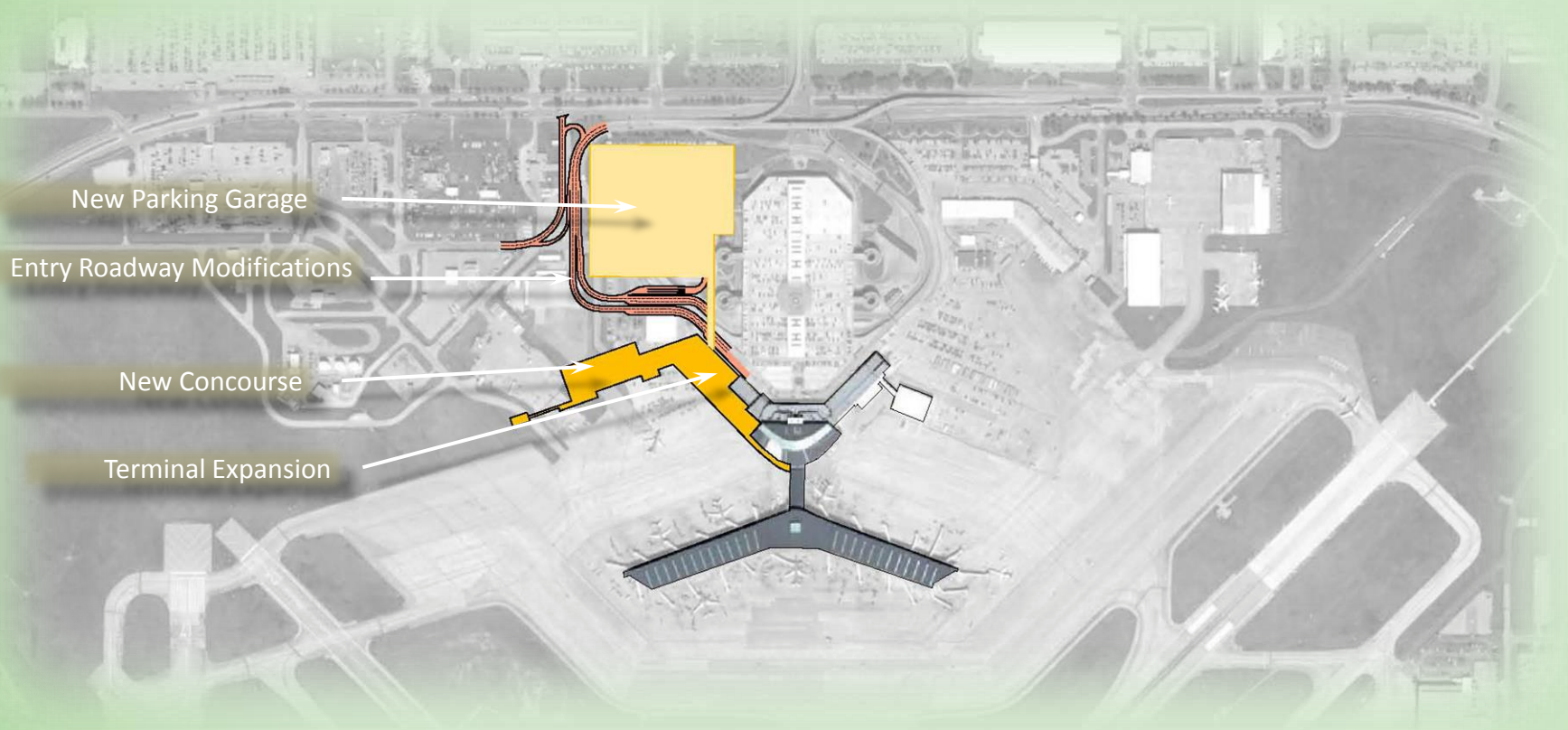
Floor Plan, Concourse Level

Attachment VII



Site Plan Concept

Attachment VII

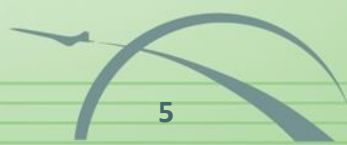


New Parking Garage

Entry Roadway Modifications

New Concourse

Terminal Expansion



Associated HAS Projects

Attachment VII

