

FRAMEWORK FOR SETTLEMENT

ALLOWING CONSTRUCTION OF A NEW TERMINAL FOR THE BURBANK-GLENDALE-PASADENA AIRPORT

1. Introduction

1.1 For the past several years, the City of Burbank (“City”) and the Burbank-Glendale-Pasadena Airport Authority (“Authority”) have been engaged in a dispute regarding the Authority’s acquisition of the B-6 Property within the City and the construction of a new passenger terminal and related Airport facilities. This dispute has been costly and time-consuming for all involved and it is the desire of both parties to resolve all disputes concerning the Project expeditiously, efficiently and permanently.

1.2 The signatories to this *Framework for Settlement* (“*Framework*”) do not intend to, and do not have the authority to, bind their agencies. Further, they recognize that the law requires many formal reviews and approvals (including public hearings and certain federal government reviews and approvals) before a final and definitive *Development Agreement* (“*Development Agreement*”) can be executed. The signatories pledge to use their best efforts to complete and secure such reviews and approvals in an expeditious fashion. The signatories contemplate the following general process for resolution of this dispute:

1.2.1 This *Framework* is executed.

1.2.2 As soon as possible, the City Council and the Airport Authority Commission will execute the *Escrow Agreement* to secure the Authority’s ability:

1.2.2.1 to acquire the parts of the B-6 Property needed to assure (i) that no structures are placed on the B-6 Property within the Building Restriction Line (“*BRL*”) shown on the Airport’s FAA approved Airport Layout Plan and (ii) that the portion of the B-6 Property within the Airport’s 65 dB CNEL noise contour as of the date of the *Escrow Agreement* is not used or developed for any purpose other than uses permitted pursuant to the July 9, 1997 Stipulated Order of the Superior Court in *City of Burbank v. Burbank-Glendale-Pasadena Airport Authority, Case. No. EC 022341*, under which the Authority took possession of the B-6 Property unless the Authority and the City have executed the final *Development Agreement* and all preconditions set forth in the *Development Agreement* to any new use, construction or development have been achieved, and (iii) that transfer of title does not deprive the City of any rights pursuant to PUC section 21661.6 or other land use laws.

1.2.2.2 to acquire title to the remaining B-6 Property in the event of execution of a final *Development Agreement*.

1.2.3 The Authority will submit a new or amended application under PUC section 21661.6 (“*Application*”) consistent with the principles set forth in this *Framework*.

1.2.4 The City and the Authority will assiduously pursue whatever approvals are needed to accomplish the purposes of this *Framework*.

1.2.5 The City Council and the Airport Authority Commission will execute a formal *Development Agreement* if all approvals have been secured.

1.3 The signatories recognize that this *Framework* is the result of lengthy negotiations by representatives of the City and the Authority and reflects considerable compromises on both sides. Accordingly, this *Framework* should be viewed as a complete package, each provision of which is crucial to the parties' willingness to reach a settlement. Therefore, the signatories pledge to use their best efforts to secure approval from the City Council and Airport Authority Commission, respectively, of the actions contemplated by this *Framework* without amendment or change.

2. Purpose

2.1 The purpose of this *Framework* is to outline the terms and conditions under which the City and the Authority will agree to settle all litigation and obtain all necessary or desirable approvals for the construction of the new passenger terminal described in this *Framework*. The signatories acknowledge that the final and precise terms of an enforceable *Escrow Agreement* and *Development Agreement* must be negotiated and memorialized in separate documents prepared in a manner consistent with this *Framework* and executed by the City Council and the Airport Authority Commission. They intend for their respective counsel and staff to work diligently to prepare the *Escrow Agreement* and formal *Development Agreement* with the objective of presenting them for formal City Council and Airport Commission approval as soon as possible.

2.2 It is the desire of the parties to achieve the following policy goals:

2.2.1 TO PERMIT THE AUTHORITY TO ACQUIRE SPECIFIED PARCELS OF THE B-6 PROPERTY, UPON EXECUTION OF THE ESCROW AGREEMENT AND SUBJECT TO THE TERMS OF THIS FRAMEWORK AND THE ESCROW AGREEMENT, SOLELY FOR THE PURPOSE OF ASSURING THAT NO AIRPORT OR OTHER DEVELOPMENT OCCURS ON SAID PROPERTY, AND NOT FOR THE PURPOSE OF EXPANDING OR ENLARGING THE AIRPORT;

2.2.2 TO PERMIT THE AUTHORITY, SUBJECT TO THE TERMS CONTAINED IN THIS FRAMEWORK AND THE DEVELOPMENT AGREEMENT, TO ACQUIRE THE REMAINING B-6 PROPERTY, AND INITIALLY TO CONSTRUCT A REPLACEMENT 14-GATE TERMINAL AND RELATED FACILITIES TO REPLACE THE EXISTING OUTDATED TERMINAL;

2.2.3 TO ENSURE THAT SPECIFIC MEASURES ARE IMPLEMENTED THAT PROVIDE, AS DESCRIBED HEREIN, EFFECTIVE AND ENFORCEABLE LIMITS ON THE SOCIAL, ENVIRONMENTAL AND FISCAL IMPACTS ASSOCIATED WITH GROWTH IN AIRPORT OPERATIONS;

2.2.4 TO AUTHORIZE THE CONSTRUCTION OF AIRPORT FACILITIES ON THE B-6 PROPERTY IN PHASES ONCE THE AUTHORITY HAS AFFIRMATIVELY DEMONSTRATED, FOR EACH RESPECTIVE PHASE OF DEVELOPMENT, ACCOMPLISHMENT OF SPECIFICALLY DEFINED OBJECTIVES OR ACTIONS THAT ARE DESIGNED TO REDUCE OR ELIMINATE THE IMPACTS OF AIRPORT GROWTH ON THE AIRPORT'S NEIGHBORS; AND

2.2.5 TO EXPEDITE ANY APPROVALS FROM LOCAL, STATE, AND FEDERAL ENTITIES, INCLUDING THE CITY, THE BURBANK REDEVELOPMENT AGENCY, THE AUTHORITY AND THE FEDERAL AVIATION ADMINISTRATION, THAT ARE NECESSARY OR DESIRABLE TO THE ACHIEVEMENT OF GOALS OF THIS *FRAMEWORK*.

3. Framework

3.1 Step One: Approval of *Escrow Agreement* and Partial Transfer of Title

3.1.1 As soon as possible after the execution of this *Framework*, the City and the Authority will execute an *Escrow Agreement*. The *Escrow Agreement* shall include the following provisions, along with such other consistent terms and conditions as are appropriate under the circumstances and that are consistent with this *Framework*:

3.1.1.1 Provisions transferring to the Authority, immediately following the making of the payments required by the Court in *Burbank-Glendale-Pasadena Airport Authority v. Lockheed Corporation*, Sup. Ct. No. BC 155222 (the “*Condemnation Action*”), title to B-6 parcels D, E, F, H and that portion of A within the *BRL*, as identified on Exhibit “1” hereto, for the purpose, and only for the purpose, of assuring (i) that no structures are placed on the B-6 Property within the *BRL* and (ii) that no part of the B-6 Property within the Airport’s 65 dB CNEL noise impact area (as depicted in the Authority’s Quarterly Noise Report for the quarter last ended before execution of this *Framework*) will be utilized by the Authority for expansion or enlargement of the Airport, or for any purpose other than uses permitted pursuant to the July 9, 1997 Stipulated Order of the Superior Court in *City of Burbank v. Burbank-Glendale-Pasadena Airport Authority*, Case. No. EC 022341, under which the Authority took possession of the B-6 Property, unless the Authority and the City have executed the final *Development Agreement* and all preconditions set forth in the *Development Agreement* to any such development have been achieved. The title received by the Authority to B-6 parcels D, E, F, H and that portion of A within the *BRL* shall be subject to deed restrictions and easements so as to assure (i) that no structures are authorized on the B-6 Property within the *BRL* and (ii) that the Authority cannot and will not use any other portion of parcels D, E, F, H for any structure, construction or development project to expand or enlarge the Airport unless the Authority and the City have executed the final *Development Agreement* and all preconditions set forth in the *Development Agreement* to any such construction or development have been achieved. (For purposes of the *Escrow Agreement*, it shall be assumed that all of parcels D, E, F, and H lie within the 65 dB CNEL contour.)

3.1.1.2 Provisions prohibiting the Authority from making any representations to the FAA inconsistent with terms of the *Escrow Agreement*.

3.1.1.3 Provisions allowing the Authority to establish, with an independent third party selected by the Authority, an escrow account, subdivision or other real property trust, or other legally enforceable procedure which will assure, once the Authority has made the court-required payments to Lockheed in the *Condemnation Action*, that Lockheed’s rights to the B-6 Property shall be extinguished, except to the extent Lockheed shall (i)

transfer title to the remaining part of the B-6 Property to such third party pursuant to the terms of the *Escrow Agreement* or (ii) retain legal title solely for the purpose of conveying such title either to the Authority upon execution of the *Development Agreement* or to the City and/or an ultimate purchaser in the event the City and the Authority abandon the effort to execute the *Development Agreement* and the parties then proceed to dispose of the remaining B-6 Property as set forth in § 3.1.1.6 below. It is anticipated, should a subdivision trust or other such account or procedure be utilized, that the independent third party described above shall be a nationally recognized title company, an affiliate of such a title company, or another credible trustee. Such entity shall take title subject to deed restrictions and easements assuring that the Authority cannot and will not use any part of the B-6 Property for any construction or development project for expansion or enlargement of the Airport unless the Authority and the City have executed the final *Development Agreement* and all preconditions set forth in the *Development Agreement* to any such construction or development have been satisfied. It is also recognized, however, that the Authority may determine that use of a subdivision or other real property trust is not preferable to Lockheed retaining title pending the parties' effort to enter a *Development Agreement* and that, at the Authority's election, title may stay in Lockheed during the term of the escrow (but subject to Lockheed's absolute obligation to convey title either to the Authority upon execution of the *Development Agreement* or to the City and/or an ultimate purchaser in the event the City and the Authority abandon the effort to execute the *Development Agreement* and the parties then proceed to dispose of the remaining B-6 Property as set forth in § 3.1.1.6 below).

3.1.1.4 Provisions that, in the event that the *Development Agreement* is executed, the Authority agrees to seek approval for the use of any or all of the B-6 Property for the uses contemplated in the *Development Agreement* pursuant to PUC section 21661.6 without regard to any property interest that the Authority acquires pursuant to the terms of the *Escrow Agreement*.

3.1.1.5 Provisions establishing an obligation on the part of the Authority, once title is placed in escrow or in the name of the independent third party described above, to pay all taxes due on the part of the B-6 Property to which the Authority does not take title and to be responsible for all liability associated with the such property (all without prejudice to Lockheed's indemnity obligations and such defenses and immunities to liability secured by the Authority as a consequence of the *Condemnation Action*).

3.1.1.6 Provisions assuring that in the event that the *Development Agreement* is not executed or the Authority is otherwise precluded from acquiring title to the remaining portion of the B-6 Property:

3.1.1.6.1 the Authority will be prohibited from taking title to the remaining portion of the B-6 Property out of the escrow account, subdivision or other real property trust or other account;

3.1.1.6.2 the Authority will take action, with the assistance of the City, to sell the B-6 Property (with the exception of parcels D, E, F, H and that portion of A within the *BRL*) in an orderly manner so as to avoid economic loss to the Authority while recognizing the need to return the property to productive use, subject to applicable regulatory requirements with respect to contamination remaining on the B-6 Property at the time of transfer;

3.1.1.6.3 the City will have an option to acquire all or a portion of the B-6 Property not then owned by the Authority, exercisable at a price to be set by a process established in the *Escrow Agreement* or by an arbitration before a single arbitrator selected by the parties or by the Superior Court if the parties are unable to agree on an arbitrator; and

3.1.1.6.4 the City and the Authority will cooperate in the disposition of the applicable portions of the B-6 Property in a manner that bars development that is incompatible with Airport operations.

3.1.1.7 Binding and enforceable assurances that the Authority shall be permitted to take title to the portions of the B-6 Property not previously transferred to the Authority in the event the City and the Authority execute a final, binding and enforceable *Development Agreement*.

3.1.2 Counsel for the Authority and counsel for the City, by their execution of this *Framework*, acknowledge that they have advised their respective clients that a transfer of title to B-6 parcels D, E, F, H and that portion of A within the *BRL* subject to restrictions that prevent use of such property for expansion or enlargement of the Airport, or for any purpose other than uses permitted pursuant to July 9, 1997 Stipulated Order of the Superior Court in *City of Burbank v. Burbank-Glendale-Pasadena Airport Authority, Case. No. EC 022341*, under which the Authority took possession of the B-6 Property, does not require City Council approval pursuant to Public Utilities Code § 21661.6.

3.2 Step Two: Submission of PUC Section 21661.6 Application

As soon as possible after the execution of this *Framework*, the Authority shall submit to the City a new or amended *Application* for City Council approval of the Authority's acquisition of the B-6 Property pursuant to California Public Utilities Code Section 21661.6. The *Application* shall be consistent with this *Framework* and the *Escrow Agreement*.

3.3 Step Three: Negotiation of *Development Agreement*; Securing Necessary Approvals

The City and the Authority shall negotiate a *Development Agreement* with the following basic terms.

3.3.1 Phases for New Terminal Project

3.3.1.1 Phase I – Construction of a New 14-Gate Passenger Terminal: Subject to the conditions set forth in § 3.4 below, the Authority will be authorized to construct and occupy a replacement passenger terminal with no more than 330,000 square feet of space devoted to

terminal (including baggage) facilities, no more than 14 aircraft gates or parking positions, and including not less than 45,000 square feet of space permanently devoted to concessions. The Authority will also be authorized to construct no more than 5,000 public automobile parking spaces west of Hollywood Way. Authority offices may be included within the Phase I terminal. Such offices are not included within the 330,000 square foot limit on passenger and baggage facilities. Such office facilities cannot be converted to accommodate passenger use or airline operations.

3.3.1.2 Phase II – Expansion to a 16-Gate Passenger Terminal: Subject to the conditions set forth in § 3.4 below, the Authority will be authorized to expand the passenger terminal facility to a total of 16 aircraft gates or parking positions, and 370,000 square feet of space (exclusive of Authority office space as described above). The Authority will also be authorized to expand parking to accommodate a total of no more than 6,000 public automobile parking spaces west of Hollywood Way.

3.3.1.3 Phase III – Expansion to a 19-Gate Passenger Terminal: Subject to the conditions set forth in § 3.4 below, the Authority will be authorized to expand the passenger terminal facility to a total of 19 aircraft gates or parking positions, and 430,000 square feet of space (exclusive of Authority office space as described above). The Authority also will be authorized to expand parking to accommodate a total of 8,000 public automobile parking spaces west of Hollywood Way. Expansion beyond Phase III is prohibited.

3.4 Specific Preconditions for Each Phase of Terminal Development

3.4.1 The Authority will be authorized to construct and occupy each Phase of the Project only once the Authority has demonstrated affirmatively that it has fulfilled successfully all of the preconditions specified for that phase of the Project.

3.4.2 “*Fulfilled successfully all of the preconditions*” means that the Authority will have completed whatever reviews, and will have received whatever legal approvals are necessary to accomplish each precondition in a permanent and binding manner. The parties recognize that successful fulfillment of certain preconditions will require approvals from federal or state agencies over which neither party has control. The parties recognize and accept the uncertainty inherent in making phases of the Project contingent upon the receipt of necessary approvals over which neither party has control. The City and the Authority will cooperate in making all efforts necessary to obtain any required approvals. Notwithstanding the lack of the parties’ control over some approvals or authorizations for the satisfaction of certain conditions, the Authority must demonstrate that those approvals or authorizations necessary have been obtained for it to be deemed to have satisfied those preconditions.

3.4.3 PHASE I PRECONDITIONS. The Authority will have to satisfy the following conditions before it may construct any facilities contemplated in Phase I:

3.4.3.1 Nighttime Closing of Passenger Terminal: The *Development Agreement* will set forth the specific measures that the Authority will adopt and diligently enforce to accomplish the closing of the existing and the new terminal to the public from 11:00 p.m.

to 6:00 a.m. and will contain a commitment by the Authority to apply those measures to accomplish the closing of all terminal facilities to be constructed on the B-6 Property. The Authority's obligation shall be unconditional unless (i) it is affirmatively ordered otherwise by a court of competent jurisdiction or (ii) a court of competent jurisdiction determines that Authority action to enforce its procedures for closing the terminal would constitute a violation of applicable state or federal laws or regulations and such a holding is not correctable by remedial action of the Authority.

3.4.3.2 Removal of Existing Terminal: The *Development Agreement* shall provide that the existing terminal structure shall be demolished promptly following occupancy of the new terminal; no new structures shall be erected that violate FAA airport design standards.

3.4.3.3 Strict Enforcement of Existing Aircraft Noise Rules: The *Development Agreement* will set forth the measures that the Authority will implement to enforce strictly all pre-November 5, 1990 aircraft noise rules and will set forth the penalties for violations of those noise rules to the maximum extent permissible without FAA approval. The *Development Agreement* will provide that in the event of a dispute between the City and the Authority over the adequacy of the Authority's efforts to enforce the Authority's pre-November 5, 1990 aircraft noise rules, the matter shall be resolved by an arbitration before a single arbitrator selected by the parties, or by the Superior Court if the parties are unable to agree on an arbitrator. The Authority will be obliged to take all actions determined by the arbitrator to be appropriate hereunder. The Authority's obligations shall include the duty to bring or defend any litigation arising as a result of its efforts, at the direction of the arbitrator or otherwise, to enforce its pre-November 5, 1990 aircraft noise rules. The Authority's obligation shall be unconditional unless (i) it is affirmatively ordered otherwise by a court of competent jurisdiction or (ii) a court of competent jurisdiction determines that Authority action to enforce its existing aircraft noise rules constitute a violation of applicable state or federal laws or regulations.

3.4.3.4 Part 161 Study For Curfew On Jet Operation At Night And For Elimination Of Jet Aircraft Not Originally Certified As Meeting FAR Part 36 Stage 3 Noise Limits: The *Development Agreement* will provide that the Authority may, at any time following execution of this *Framework*, initiate a study under FAR Part 161 for the imposition of noise or access restrictions consistent with this *Framework* and the *Development Agreement*. If more than two years has passed since execution of the *Development Agreement* and the Authority has not initiated such a study, the City shall be entitled to require that the Authority institute a FAR Part 161 study to impose (i) a 10:00 p.m. to 7:00 a.m. curfew on jet operations at the Airport and (ii) a phase-out or ban of aircraft not originally certified as meeting FAR Part 36 Stage 3 noise limits. If such a study is initiated at the request of the City, the City shall be an active participant in the selection and direction of the consultant and in the conduct of the study, and the City shall share equally with the Authority the unreimbursed costs of such a study. The Authority may at

any time initiate a Part 161 study or studies at its own expense relating to the matters that are the subject of this *Framework*, the *Development Agreement* or otherwise. Unless such studies are initiated at the request of the City, the City will have no special financial responsibility and no special rights to participate in their preparation. The *Development Agreement* will provide that the Authority will be obligated to implement any noise rules approved by the FAA pursuant to FAR Part 161.

3.4.3.5 Payments in Lieu of Taxes; Parking Tax Ceiling: The *Development Agreement* will set forth the Authority's agreement to make annual payments in lieu of taxes to the City effective upon occupancy of the first Phase of the new terminal. The initial annual payment in lieu shall be calculated as 1 percent of the value of property owned by the Authority within the City. The *Development Agreement* will provide the basis for valuing the property for these purposes as of the date the Authority may first occupy and use the first Phase of the new terminal. The *Development Agreement* will obligate the City to abate the annual payment, except as provided herein, to the extent that the payment obligation exceeds \$1.5 million annually, adjusted as follows: First, the abated payment (initially \$1.5 million) shall be increased at a rate equal to the rate of inflation for the County of Los Angeles or two (2) percent per year, whichever is smaller. Second, the abated payment (initially \$1.5 million) will be reduced to the extent that tax revenues to the City from activities occurring on the B-6 Property, other than parking, increase. The *Development Agreement* will also provide that the City shall not increase the tax rate applicable to transient parking at the Airport during the time that bonds issued to finance development of the new terminal remain outstanding.

3.4.3.6 Waiver of Claims: The *Escrow Agreement* and the *Development Agreement* will contain waivers by the Authority of any and all claims that the deed restrictions, easements and conditions of approval under PUC section 21661.6 applicable to the B-6 Property, the *Escrow Agreement* and *Development Agreement* are or will be preempted by federal or state law. The *Escrow Agreement* and the *Development Agreement* will also contain express acknowledgments that PUC Section 21661.6, California real property law, and the City's and the Burbank Redevelopment Agency's local land use laws (including the City's Zoning Ordinance and General Plan, and the Redevelopment Agency's Golden State Redevelopment Plan) apply to and restrict use of the B-6 Property and provide justification that is not preempted by state or federal law for the limitations and restrictions on use of the B-6 Property set forth in the deed restrictions, easements and conditions of approval under PUC section 21661.6 applicable to the B-6 Property, the *Escrow Agreement* and the *Development Agreement*. Both the *Escrow Agreement* and the *Development Agreement* will contain provisions to ensure, should either *Agreement* be found to be preempted or otherwise illegal or unenforceable, that the intent of the parties to this *Framework* and the *Agreements* will be carried out through other permissible legal mechanisms.

3.4.3.7 Phaseout of Stage 2 Aircraft: The *Development Agreement* will contain a commitment by the Authority to adopt and implement a noise rule that provides for the

phase-out of operations by jet aircraft whose noise levels do not meet Stage 3 noise limits as quickly as is reasonably possible, but in no event over a period greater than five years following execution of the *Development Agreement*, and will provide that occupancy of any new Airport facilities on the B-6 Property will be explicitly conditioned upon the Authority's demonstration that a ban on 10:00 p.m. to 7:00 a.m. operations by such aircraft has been implemented and effectively enforced and that the phase-out rule has been implemented. The Authority's obligations with respect to the phase-out of such operations shall be unconditional unless (i) it is affirmatively ordered otherwise by a court of competent jurisdiction or (ii) a court of competent jurisdiction determines that Authority action to enforce the phase-out of operations by jet aircraft whose noise levels do not meet Stage 3 noise limits constitutes a violation of applicable state or federal laws or regulations and such holding is not correctable by remedial action of the Authority.

3.4.3.8 Funding for Infrastructure Improvements and Mass Transit Study: The *Development Agreement* will contain the following commitments by the Authority regarding the funding of (i) infrastructure costs associated with increases in passenger traffic at the Airport following terminal development permitted by this *Framework* and the *Development Agreement* and (ii) a mass transit study:

The Authority will fund its share of transportation improvements in the City not paid for by grants or other project-specific special sources of revenue (including intersection and roadway widening, signalization improvements, freeway access and grade separations) associated with increases in passenger traffic at the Airport following terminal development permitted by this *Framework* and the *Development Agreement*. A transportation study funded by the City and the Authority will be prepared by the City in accordance with standard industry practices prior to the execution of the *Development Agreement*. The study will determine what intersection and roadway widening, signalization, freeway access and grade separation improvements are necessitated by the Airport development projects that are permitted pursuant to the *Development Agreement*. Consistent with the Authority's commitments (in the environmental documents for the terminal replacement project and pursuant to obligations imposed by City land use ordinances and PUC section 21661.6) to mitigate such consequences of Airport development, the *Development Agreement* will oblige the Authority to bear its proportionate share of the cost of such improvements. The Authority's funding obligation will be phased based on actual expenditures by the City.

The Authority will pay for its share of the costs of improving police, fire, park and library facilities associated with increases in passenger traffic at the Airport by paying the City the per square foot charge for net increased terminal floor area at the industrial rates generally applicable in the City as set forth in the City's Development Fee Ordinance, subject to generally applicable offsets where development replaces existing facilities, at the time each building permit is issued. The current rate for industrial uses is \$0.511 per square foot.

The Authority will pay sewer facilities charges as required by the City's Public Works Department, at the industrial rates generally applicable in the City, subject to any offsets permitted by City ordinance.

The Authority will pay the costs associated with new water and electrical distribution facilities to the same extent as others similarly situated, as required by the City's Public Services Department.

The *Development Agreement* will provide that the Authority will be obliged to fund a reasonable share of the cost of designing a connection between the Airport terminal and a future light rail or other mass transit project serving the Airport. The Authority will also work with the City and other organizations to seek necessary funding for construction of such a project from regional, state and federal sources. The *Development Agreement* will also contain a commitment from the Authority to dedicate, at no cost, if reimbursement is not available, rights of way on Authority land and necessary support facilities required by MTA reasonably needed for a mass transit connection, when such facility is constructed, so long as such rights of way do not interfere with airside operations at the Airport. The *Development Agreement* will contain a commitment to design and build the terminal on the B-6 Property in anticipation of the potential introduction of mass transit facilities. The plans for the terminal project will show how such a potential connection could be accommodated.

In the event that the Authority is barred by a court of competent jurisdiction from fulfilling any of its obligations under this paragraph regarding the funding of infrastructure improvements and the mass transit study, the City shall temporarily be relieved of its obligation to abate the payments in lieu of taxes described above to the extent that such reduction in the abatement directly offsets the costs otherwise payable by the Authority under this paragraph.

3.4.3.9 Recognition of Historic Sites/Art in Public Places: The *Development Agreement* will set forth a process by which the Authority will identify and implement an appropriate means of recognizing the historic significance of aviation in southern California in compliance with Section 31-925 et seq. of the Burbank Municipal Code. The *Development Agreement* will also reaffirm the Authority's obligation to provide art in public places in accordance with the requirements of Section 31-1114 of the Burbank Municipal Code.

3.4.3.10 Compliance With California Government Code Section 6546.1: The *Development Agreement* will contain a commitment by the Authority to comply with the ceiling on the size of the noise impact area as set forth in the Section 6546.1 of the California Government Code and as interpreted in *City of Burbank v. Burbank-Glendale-Pasadena Airport Authority* (Cal. Ct. App. No. B 116971) (Nov. 12, 1998).

3.4.3.11 Rotating Presidency: The *Development Agreement* will contain an agreement by the Authority, enforceable by the City, to adopt and maintain operating

procedures under which at least one Commissioner appointed by each party to the Joint Powers Agreement shall be permitted to serve as Commission President for at least three years out of each ten (10) year period.

3.4.3.12 Home Sound Insulation Program: The *Development Agreement* will contain a commitment by the Authority to continue its program to acoustically insulate homes, to seek a \$50 million federal grant to finance acceleration and expansion of the home insulation program, and a commitment by the Authority to provide whatever local match is required for that grant. The *Development Agreement* will obligate the City and the Authority to work jointly to revise the language of the current agreement for noise insulation to provide that the Authority will covenant to the property owner, and any successors in interest, to provide additional noise attenuation or other remedial work on a previously noise insulated residence if the interior noise level of the home during any consecutive four calendar quarters exceeds by more than 2 decibels CNEL the maximum permissible interior cumulative noise exposure level of 45 dB CNEL (as determined in accordance with the California Noise Standards using FAA test procedures incorporated in ASTM E-966); provided that the cause of excessive interior noise is attributable to an increase in exterior aircraft noise, not a modification to the home or to the installed noise insulation improvements.

3.4.3.13 Ban on Eastern Departures: The *Development Agreement* will provide that the Authority will seek formal approval by the FAA of a permanent ban on the use of Runway 8 for departures by aircraft of 12,500 pounds or greater gross take-off weight.

3.4.4 PHASE II PRECONDITIONS. In addition to satisfying the Phase I preconditions, the Authority will have to satisfy the following conditions before it may construct any facilities contemplated in Phase II.

3.4.4.1 Nighttime Curfew: The *Development Agreement* will contain a provision that requires the Authority to demonstrate that it has implemented a binding and permanent curfew banning non-emergency jet aircraft operations from 10 p.m. to 7 a.m.

3.4.4.2 Ban on Stage III Retrofit Operations: The *Development Agreement* will include a provision that requires the Authority to demonstrate that it has implemented a binding and permanent ban on non-emergency aircraft operations by jet aircraft that were not originally manufactured and certified as Stage III aircraft.

3.4.4.3 Completion of Home Sound Insulation Program: The *Development Agreement* will contain a commitment by the Authority to demonstrate that it has established a funding mechanism to finance the acoustical insulation of at least 50 percent all homes within the 65 dB CNEL aircraft noise contour, determined by reference to the noise impact boundary depicted in the Airport's quarterly noise report for the calendar year ended immediately prior to adoption of the *Development Agreement*. The Authority shall demonstrate that it has completed insulation in at least 30 percent of the eligible homes.

3.4.5 PHASE III PRECONDITIONS. In addition to satisfying the Phase I and Phase II conditions, the Authority will have to satisfy the following conditions before it may construct any facilities contemplated in Phase III.

3.4.5.1 Elimination of Airport's Noise Impact Area: The *Development Agreement* will include a provision that requires the Authority to demonstrate that the Airport's noise impact area (as that term is defined in regulations of the California Department of Transportation) has been eliminated and will remain at zero (with the exception of homes where the owner has declined noise attenuation offered consistent with the terms of the *Development Agreement*).

3.4.5.2 Cap on Number of Passengers: The *Development Agreement* will include a provision that requires the Authority to implement a cap on the number of airport passengers. Phase III cannot be implemented until or unless the City and the Authority enter into an agreement setting such cap.

3.5 City and Authority Approvals That Permit the Implementation of Each Phase

3.5.1 The City will simultaneously approve the *Development Agreement* and all necessary and desirable City approvals for the implementation of the *Development Agreement*. It is understood that the effectiveness of those approvals will be expressly conditioned upon the Authority's satisfaction of the preconditions set forth in the *Development Agreement*. The *Development Agreement* and attendant documentation will provide all City approvals (including conditional approvals) for the Project so that further City Council action is not necessary to authorize the Project.

3.5.2 The parties acknowledge that Burbank City approvals include, but are not limited to, zoning and land use approvals, approval under section 21661.6 of the California Public Utilities Code, environmental approvals and approvals necessary for the Authority to seek and to obtain tax exempt financing for implementation of the Project. The City Council will instruct the Burbank-appointed Commissioners to take no action, including action relating to the issuance of revenue bonds and other financing, which conflicts with the intent of the *Development Agreement*.

3.5.3 The parties acknowledge that Authority approvals include, but are not limited to, adoption of implementing rules and regulations and securing reviews or approvals from state and federal regulatory bodies, including but not limited to the California Department of Transportation and the Federal Aviation Administration, to the extent required for the Authority to fulfill by the commitments set forth in the *Development Agreement* in a binding and permanent manner.

3.5.4 The failure of either the City Council or the Airport Authority Commission to provide any necessary legal approvals shall provide adequate justification for either the City or the Authority to decline to execute the *Development Agreement*.

3.6 Miscellaneous Provisions

3.6.1 Airport Layout and Site Plans: An Airport Layout Plan approved by the Authority and the FAA depicting each phase of the Project and a site plan approved by Burbank under applicable law will be integral parts of the *Development Agreement*.

3.6.2 Enforcement: The *Development Agreement* and the *Escrow Agreement* will contain mutual enforcement provisions for the purpose of ensuring that changes in circumstances do not forgive compliance with the *Escrow Agreement* or the *Development Agreement*. Such provisions will provide protections so as to reflect the intent of the parties, as expressed in this *Framework*, the *Escrow Agreement* and the *Development Agreement*, to make the *Development Agreement* obligations binding and permanent. That intent will be preserved and implemented, even if portions or the entirety of such agreements are found to be preempted, unenforceable or otherwise illegal.

3.6.3 Defenses: The *Escrow Agreement* and the *Development Agreement* will provide that the City and the Authority agree that neither party can claim as a defense or excuse for its failure to fulfill a precondition or provide an approval required under the *Escrow Agreement* or the *Development Agreement* the impossibility of law or fact, illegality, or any similar defense.

3.6.4 Dismissal of Litigation: The *Development Agreement* will contain commitments (i) by the Authority and the City to dismiss whatever litigation is pending against the other party at a time to be established in the *Development Agreement*; (ii) by the City to seek concurrence to the dismissal of any litigation to which the State of California is party; (iii) by the Authority and the City to make appropriate filings with the California Department of Transportation Aeronautics Division memorializing the *Development Agreement* (and to seek concurrence in such filings from other parties to such proceedings).

3.6.5 Agreement to Execute Further Documents and Give Necessary Approvals. The *Development Agreement* will provide that the City and the Authority will grant such additional and consistent approvals, and execute such additional documents, as may be necessary to accomplish the parties' respective commitments contained in the *Framework*, the *Escrow Agreement*, and the *Development Agreement*.

3.6.6 Memorialization of *Development Agreement*. The parties intend that the substance of this *Framework* and the *Development Agreement* will be memorialized as (i) formal conditions of zoning and land use approval under applicable Burbank ordinances; (ii) formal approval of the Authority's *Application* under PUC section 21661.6; (iii) a stipulated order in connection with the dismissal of pending litigation; (iv) mandatory terms contained in the Authority Commission's resolution approving debt financing providing that such approval is conditioned upon compliance with the *Development Agreement*; and (v) an intergovernmental agreement under the authority of the California Joint Exercise of Powers Act (provided, however, that nothing herein or in any other document hereunder will delegate any Authority rights or responsibilities with respect to the Airport to the City).

4. Best Efforts to Implement this *Framework*

4.1 The parties pledge to take any and all action necessary to facilitate and support approvals by third parties including but not limited to the Federal Aviation Administration. The City and the Authority will cooperate in any efforts to obtain support for the *Escrow Agreement* and the *Development Agreement* or for approvals that are necessary to implement the *Escrow Agreement* and the *Development Agreement*, from members of the State Legislature or Congress. Neither the Authority nor the City will support legislation or administrative action, at any level of government, that seeks to interfere with or undercut achievement of the objectives set forth in this *Framework*, the *Escrow Agreement* or the *Development Agreement*.

4.2 The parties understand that the *Escrow Agreement* and the *Development Agreement* cannot be executed, and the terms of this *Framework* cannot be implemented, without future action by the Burbank City Council, the Airport Authority Commission and the Federal Aviation Administration. In addition, the parties recognize that some of the actions require public hearings, review processes, completion of studies and other procedures and that final approval of these actions is within the discretion of the decision-making body. Nevertheless, the signatories to this *Framework* pledge to use their best efforts to complete such procedures and take such actions in an expeditious fashion.

4.3 The parties understand that the failure to fulfill the preconditions and the failure to obtain the approvals required under this *Framework* will preclude the implementation of the phase of the Project for which fulfillment of the precondition or the approval is required. The parties further understand that preconditions or approvals may fail because of a number of circumstances, including financial inability or the failure to obtain governmental approvals from third parties.

5. Timetable for Formal Settlement Agreement

5.1 The terms of this *Framework* shall be set forth in a formal *Escrow Agreement* and a formal *Development Agreement* to be prepared by the staffs and counsel of the City and the Authority working in cooperation with each other.

5.2 It is the goal of the parties to complete approvals that are necessary to execute the *Escrow Agreement* on or before the final date by which the Authority is to make the final payment in *Burbank-Glendale-Pasadena Airport Authority v. Lockheed Corporation*, Sup. Ct. No. BC 155222.

5.3 It is the goal of the parties to complete the steps that are necessary to gain the approvals necessary to the terminal project described above and to execute the *Development Agreement* within 150 days of this *Framework*.

Submitted and Recommended by the Airport Authority Negotiations Committee and the City Council Airport Committee, this 4th day of August 1999:

Stacey Murphy
Mayor, City of Burbank

Carl Messeck
President, BGP Airport Authority

David Golonski
City Councilman, City of Burbank

Jim Starbird
Commissioner
BGP Airport Authority

APPROVED AS TO FORM:

Peter J. Kirsch
Special Counsel, City of Burbank

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EXHIBIT 1

