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9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **FOR THE COUNTY OF LOS ANGELES**
11 **NORTH CENTRAL DISTRICT – BURBANK**

12 BURBANK-GLENDALE-PASADENA
13 AIRPORT AUTHORITY,

14 Plaintiff,

15 v.

16 LOCKHEED CORPORATION,
17 LOCKHEED AIRCRAFT
18 CORPORATION, LOCKHEED AIR
19 TERMINAL, INC., RAINER
20 EQUIPMENT LEASING, INC.,
21 AIRCRAFT SERVICE TERMINAL
22 INC., LOS ANGELES COUNTY TAX
23 COLLECTOR, AND DOE ONE
24 through DOE THIRTY, inclusive, and
25 all persons unknown claiming an
26 interest in the property described in the
27 complaint,

28 Defendants.

CASE NO. BC 155222

Assigned for All Purposes To:
Honorable Carl J. West

[PROPOSED]

FINAL ORDER OF CONDEMNATION

(WITH CONSENT OF CITY OF
BURBANK)

Complaint Filed: August 7, 1996
Trial Date: April 8, 1999

Discovery Cut-off: December 5, 1998
Motion Cut-off: None

1 WHEREAS on August 8, 1996, plaintiff Burbank-Glendale-Pasadena
2 Airport Authority (the "Authority") filed a complaint in this condemnation action to
3 condemn an approximately 130-acre parcel of property more particularly described in
4 Exhibit "A-1" attached hereto and incorporated herein by this reference (the "B-6
5 Property"); and

6 WHEREAS Lockheed Corporation has merged with and into Lockheed
7 Martin Corporation ("Lockheed") and Lockheed has acquired ownership of the B-6
8 Property by operation of law; and

9 WHEREAS the condemnation action came on for trial on April 12, 1999;
10 and

11 WHEREAS a jury determined the value of the B-6 Property as of February
12 13, 1997, to be \$86,012,056 (the "Verdict Amount"); and

13 WHEREAS on June 25, 1999, the trial court, the Honorable Carl J. West
14 presiding, entered a judgment (the "Judgment") for the net amount of \$59,286,068.00
15 (calculated as the Verdict Amount of \$86,012,056.00, less an offset for \$740,000.00
16 withdrawn by Aircraft Service Terminal Inc., less \$36,952,000.00 withdrawn from the
17 deposit by Lockheed, plus interest on this resulting subtotal in the amount of
18 \$5,805,289.00, plus precondemnation delay damages in the amount of \$5,160,723.00);
19 and

20 WHEREAS the Judgment provided that the Authority would be entitled to
21 an Order of Condemnation upon payment of the sums set forth immediately above; and

22 WHEREAS on June 25, 1999, the Court ordered the Authority to increase
23 its deposit for the B-6 Property by a total amount of \$59,286,068.00 payable as follows:
24 \$30,000,000.00 due on July 26, 1999 (the "First Deposit") and \$29,286,068.00 due on
25 August 24, 1999 (the "Second Deposit"); and

26 WHEREAS on July 26, 1999, the Authority paid Lockheed \$5,160,723.00
27 and, on August 6, 1999, paid Lockheed an additional \$24,839,277.00, which sums

1 Lockheed and the Authority have agreed satisfy the Authority's obligations to make the
2 First Deposit; and

3 WHEREAS on August __, 1999, the Authority made the Second Deposit
4 required by the Court's June 25, 1999 order; and

5 WHEREAS the Authority and the City of Burbank (the "City") have
6 executed an agreement denominated the Escrow Agreement ("Escrow Agreement"); and

7 WHEREAS the Authority, the City and Security Trust Company, for itself
8 and its successors and assigns (collectively the "Trustee"), have executed a Land Title
9 Trust Agreement (the "Trust Agreement"); and

10 WHEREAS the Authority and the City have executed a Grant of Easements,
11 Declaration of Use Restrictions and Agreement for Adjacent Property for the part of the
12 B-6 Property described in Exhibit "A-2" as the "Adjacent Property" (the "Adjacent
13 Property Easement") and the City, the Authority and the Trustee have executed a Grant of
14 Easements, Declaration of Use Restrictions and Agreement for Trust Property for the part
15 of the B-6 Property described in Exhibit "A-3" as the "Trust Property" (the "Trust
16 Property Easement") (collectively, the "Easement Agreements"), which will be recorded
17 in the Official Records of Los Angeles County immediately after the recordation of a
18 certified copy of this Final Order of Condemnation ("Final Order"); and

19 WHEREAS the Authority, the City and Trustee have executed a
20 Memorandum of Option that will be recorded in the Official Records of Los Angeles
21 County immediately after the recordation of the Easement Agreements; and

22 WHEREAS the decision of the Court of Appeal for the Second Appellate District in *City*
23 *of Burbank et al. v. Burbank-Glendale-Pasadena Airport Authority*, 72 Cal. App. 4th 366
24 (1999), review denied August 11, 1999, upheld the City's right and power to approve or
25 disapprove the acquisition of property in the City of Burbank by the Authority for
26 purposes of expanding or enlarging the Burbank-Glendale-Pasadena Airport (the
27 "Airport") under California Public Utilities Code Section 21661.6 ("PUC Section

1 21661.6”); and

2 WHEREAS the Authority and the City have executed, conditioned upon
3 entry of this Final Order, (1) a Request to Dismiss Without Prejudice the Authority’s
4 remaining claims in *City of Burbank, et al. v. Burbank-Glendale-Pasadena Airport*
5 *Authority*, Case No. EC 022341, (2) a [Proposed] Final Judgment in Case No. EC 022341,
6 and (3) a [Proposed] Final Judgment Denying Petition For Writ in *Burbank-Glendale-*
7 *Pasadena Airport Authority v. City of Burbank*, Case No. ES 004248, thereby resolving
8 all issues that could bar entry of this Final Order; and

9 WHEREAS the Authority has fully complied with the Court’s June 25, 1999
10 order and satisfied all other conditions to entry of this Final Order; and

11 WHEREAS the City has given its written consent to entry of this Final
12 Order and thereby agreed: (i) to waive and relinquish all of its rights, if any, to appeal
13 from this Final Order or any other judgment or order in this case, (ii) to waive and
14 relinquish all of its rights, if any, to challenge collaterally this Final Order or any other
15 judgment or order in this case and (iii) to bear its own costs and attorneys fees in this
16 action; and

17 GOOD CAUSE APPEARING THEREFOR,

18 **IT IS HEREBY ORDERED AND ADJUDGED:**

19 A. THE “ADJACENT PROPERTY.”

20 1. Unless and until the City approves the Authority’s development plan
21 for the B-6 Property pursuant to PUC Section 21661.6 and its land use laws, as evidenced
22 by an “Acknowledgement Of Development Approval” or a “Notice Of Election To
23 Proceed Under Development Agreement As Modified,” which has been signed,
24 acknowledged and recorded in the official land title records of Los Angeles County,
25 nothing in this Final Order shall authorize the use of the Adjacent Property for the purpose
26 of expanding or enlarging the Airport, and the Authority may not use the Adjacent
27 Property for the purpose of enlarging or expanding the Airport.

28 **FINAL ORDER**
August 24, 1999

[PROPOSED] FINAL ORDER OF
CONDEMNATION

1 2. Subject to the limitation in paragraph 1, all right, title and interest in
2 the Adjacent Property of Lockheed Martin Corporation and its predecessors, successors,
3 subsidiaries and affiliates; Lockheed Corporation, Lockheed Aircraft Corporation,
4 Lockheed Air Terminal, Inc., Rainer Equipment Leasing, Inc., Aircraft Service Terminal
5 Inc. and their predecessors, successors, subsidiaries and affiliates; the Los Angeles County
6 Tax Collector; and all persons unknown claiming an interest in the Adjacent Property are
7 hereby condemned to and taken for public use by the Authority subject to and in
8 accordance with the terms of the Adjacent Property Easement, as follows: (a) for the uses
9 described in this Court's July 9, 1997 Stipulated Order in *City of Burbank v. Burbank-*
10 *Glendale-Pasadena Airport Authority*, Case. No. EC 022341, to the extent such uses do
11 not constitute the expansion or enlargement of the Airport under PUC Section 21661.6;
12 (b) for the purpose of ensuring that the use and development of the Adjacent Property
13 shall be consistent with the California Airport Noise Standards, California laws and
14 regulations regarding the construction of obstructions to air navigation (including PUC
15 Section 21659) and Federal Aviation Administration ("FAA") guidelines with respect to
16 clear zones, setbacks, height limits, and electromagnetic and light interference; (c) for the
17 purpose of imposing development restrictions, as described in the Escrow Agreement and
18 established under the Adjacent Property Easement, to ensure that the Adjacent Property is
19 not used for purposes of expanding or enlarging the Airport except as permitted by the
20 City; and (d) upon the granting of permission therefor by the City pursuant to PUC
21 Section 21661.6 and the City's other land use and zoning powers, including but not
22 limited to the City's Zoning Ordinance and General Plan and the Burbank Redevelopment
23 Agency's Golden State Redevelopment Plan, and only upon the granting of such
24 permission, for purposes of expanding and enlarging the Airport consistent with the terms
25 of the Escrow Agreement and the Adjacent Property Easement.

26 3. Upon recordation of a certified copy of this Final Order with the
27 County Recorder of the County of Los Angeles, State of California, all right, title and

1 interest in the Adjacent Property described herein, subject to and in accordance with the
2 terms of the Adjacent Property Easement, shall vest in the Authority, its successors and
3 assigns.

4 4. Pursuant to Sections 4986, 5082 and 5086 of the Revenue and
5 Taxation Code, all ad valorem real property taxes and any penalties and costs related
6 thereto pertaining to the property described herein are canceled, as of June 8, 1997, the
7 date of possession, upon recordation of a certified copy of this Final Order.

8 B. "THE TRUST PROPERTY."

9 1. The portion of the B-6 Property referred to herein as the Trust
10 Property consists of that portion of the B-6 Property not included in the Adjacent
11 Property. Unless and until the City approves the Authority's development plan for the B-
12 6 Property pursuant to PUC Section 21661.6 and its land use laws, as evidenced by an
13 "Acknowledgment Of Development Approval" or a "Notice Of Election To Proceed
14 Under Development Agreement As Modified," which has been signed and acknowledged
15 by the City and recorded in the official land title records of Los Angeles County, nothing
16 in this Final Order shall be understood to confer or vest any right, title or interest in the
17 Trust Property in the Authority (excepting the limited right to occupy and possess the
18 Trust Property as provided in paragraph B.6 below) or to authorize the use of the Trust
19 Property for the purpose of expanding or enlarging the Airport, and the Authority may not
20 use the B-6 Property for the purpose of expanding or enlarging the Airport and may not
21 acquire any right, title or interest in the Trust Property.

22 2. All right, title and interest in the Trust Property of Lockheed Martin
23 Corporation and its predecessors, successors, subsidiaries and affiliates; Lockheed
24 Corporation, Lockheed Aircraft Corporation, Lockheed Air Terminal, Inc., Rainer
25 Equipment Leasing, Inc., Aircraft Service Terminal Inc. and their predecessors,
26 successors, subsidiaries and affiliates; the Los Angeles County Tax Collector; and all
27 persons unknown claiming an interest in the Trust Property are hereby condemned to and

1 taken for public use, subject to and in accordance with the terms of the Trust Property
2 Easement, as follows: (a) for the uses described in this Court's July 9, 1997 Stipulated
3 Order in *City of Burbank v. Burbank-Glendale-Pasadena Airport Authority*, Case. No. EC
4 022341, to the extent such uses do not constitute the expansion or enlargement of the
5 Airport under PUC Section 21661.6; (b) for the purpose of imposing development
6 restrictions, as described in the Escrow Agreement and established under the Trust
7 Property Easement, to ensure that the Trust Property is not used for purposes of expanding
8 or enlarging the Airport except as permitted by the City; (c) for the purpose of insuring, in
9 the event that the Trust Property is sold or transferred to a party other than the Authority
10 in accordance with the terms of the Escrow Agreement and Trust Agreement, that the use
11 and development of the Trust Property shall be consistent with the California Airport
12 Noise Standards, California laws and regulations regarding construction of obstructions to
13 air navigation (including PUC Section 21659), and FAA guidelines with respect to clear
14 zones, setbacks, height limits, and electromagnetic and light interference, and (d) upon the
15 granting of permission therefor by the City pursuant to PUC Section 21661.6 and the
16 City's other land use and zoning powers, including but not limited to the City's Zoning
17 Ordinance and General Plan and the Burbank Redevelopment Agency's Golden State
18 Redevelopment Plan, and only upon granting such permission, for purposes of expanding
19 and enlarging the Airport consistent with the terms of the Escrow Agreement and the
20 Trust Property Easement.

21 3. Pursuant to PUC Section 21661.6, the Authority may not acquire any
22 portion of the B-6 Property for the purpose of expanding or enlarging the Airport unless
23 and until the Burbank City Council has approved the Authority's plan to expand or
24 enlarge the Airport. In order to achieve the public purposes set forth in paragraph B.2,
25 above, in a manner consistent with PUC Section 21661.6, pending a decision by the City
26 on the Authority's applications for permission to acquire the B-6 Property to expand or
27 enlarge the Airport, upon recordation of a certified copy of this Final Order with the

1 County Recorder of the County of Los Angeles, State of California, all right, title, and
2 interest in the Trust Property of Lockheed Martin Corporation and its predecessors,
3 successors, subsidiaries and affiliates; Lockheed Corporation, Lockheed Aircraft
4 Corporation, Lockheed Air Terminal, Inc., Rainer Equipment Leasing, Inc., Aircraft
5 Service Terminal Inc. and their predecessors, successors, subsidiaries and affiliates; the
6 Los Angeles County Tax Collector; and all persons unknown claiming an interest in the
7 Trust Property, subject to and in accordance with the terms of the Trust Property
8 Easement, shall vest in Security Trust Company, Trustee, and its successors and assigns
9 (collectively the "Trustee"), to hold the Trust Property and to transfer all right, title and
10 interest therein, subject to the terms of the Trust Property Easement, pursuant to the
11 Escrow Agreement and the Trust Agreement.

12 4. Pursuant to the Escrow Agreement and the Trust Agreement, if a
13 valid "Final Development Agreement" is not concluded, as evidenced by a "Notice of
14 Failure to Execute a Development Agreement" or a "Notice of Invalidation of
15 Development Agreement", which has been signed and acknowledged by the City and
16 recorded in the land title records of Los Angeles County, no right, title and interest in the
17 Trust Property shall be transferred to, or vest in, the Authority, and all right, title or
18 interest in the Trust Property shall be sold and transferred by the Trustee, subject to and in
19 accordance with the terms of the Trust Property Easement, to the City or to third parties as
20 provided in the Escrow Agreement and Trust Agreement, with all proceeds from such sale
21 being paid to the Authority. The recordation of a deed describing the Trust Property
22 executed and acknowledged by the Trustee shall be conclusive evidence of the Trustee's
23 authority to sell and transfer all right, title and interest in the Trust Property to the City or
24 to any other party and, upon the recordation of the Trustee's deed in favor of the City or
25 other party, the Authority's limited right of possession and occupancy as described in
26 paragraph B.6 below shall terminate. The Authority shall obtain all right, title and interest
27 to the Trust Property if and only if the City approves the Authority's request to construct a

1 passenger terminal on the B-6 Property and has recorded an "Acknowledgement Of
2 Development Approval" or a "Notice Of Determination To Proceed Under A
3 Development Agreement As Modified", as provided in the Escrow Agreement and the
4 Trust Agreement. The recordation of the "Acknowledgement Of Development Approval"
5 or the "Notice Of Determination To Proceed Under A Development Agreement As
6 Modified" with the County Recorder of the County of Los Angeles, State of California,
7 and the recordation of a deed describing the Trust Property executed and acknowledged
8 by the Trustee, shall be conclusive evidence of the Trustee's authority to transfer and vest
9 in the Authority all right, title, and interest in the Trust Property, subject to the provisions
10 of the Trust Property Easement.

11 5. Pursuant to Sections 4986, 5082 and 5086 of the Revenue and
12 Taxation Code, all ad valorem real by taxes and any penalties and costs related thereto
13 pertaining to the Trust Property described herein are cancelled as of June 8, 1997, the date
14 of possession, upon recordation of a certified copy of this Final Order.

15 6. Until such time as the Authority acquires all right, title and interest to
16 the Trust Property or the Trust Property is sold and transferred to the City or to a third
17 party, the Trustee, except as provided in this paragraph, shall have the sole right to possess
18 and occupy the Trust Property, to the exclusion of all others, except as required by law.
19 The Authority, as provided in the Trust Agreement, shall have the right to possess and
20 occupy the Trust Property only for the purposes permitted in the Court's July 9, 1997
21 Stipulated Order in *City of Burbank v. Burbank-Glendale-Pasadena Airport Authority*,
22 Case. No. EC 022341, to the extent such uses do not constitute the expansion or
23 enlargement of the Airport under PUC Section 21661.6, and only in accordance with the
24 Easement Agreements executed by the City and the Authority with respect to the B-6
25 Property.

26
27 C. OTHER PROVISIONS.

1 Presented By:

2 LATHAM & WATKINS

3 Robert D. Crockett

4 Vincent H. Herron

5 Damon P. Marmalakis

6 By: _____

7 Attorneys for Plaintiff

8 BURBANK-GLENDALE-PASADENA

9 AIRPORT AUTHORITY

10 CONSENT OF THE CITY OF BURBANK

11 This Consent to entry of a Final Order of Confirmation as set forth above is
12 executed by non-party City of Burbank to confirm its agreement: (i) to waive and
13 relinquish all of its rights, if any, to appeal from this Final Order or any other judgment or
14 order in this case, (ii) to waive and relinquish all of its rights, if any, to challenge
15 collaterally this Final Order or any other judgment or order in this case and (iii) to bear its
16 own costs and attorneys fees in this action:

17 Dated: August __, 1999

DENNIS A. BARLOW, City Attorney
Terry B. Stevenson, Sr. Assistant
CITY OF BURBANK

CUTLER & STANFIELD, LLP
Perry M. Rosen
Peter J. Kirsch

22 By: _____

23 Attorneys for
24 CITY OF BURBANK

EXHIBIT A-1

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EXHIBIT A-2

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EXHIBIT A-3

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STIPULATION AND [PROPOSED] FINAL
ORDER OF CONDEMNATION