

**RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:**

Burbank-Glendale-Pasadena Airport Authority
2627 Hollywood Way
Burbank, California 91505
Attn. Executive Director

WITH A CONFORMED COPY TO:

City of Burbank
275 East Olive Avenue
Burbank, California 91502
Attn. City Attorney

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Public Agency Official Business--Recording
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**AMENDED AND RESTATED GRANT OF
EASEMENTS, DECLARATION OF USE
RESTRICTIONS AND AGREEMENT FOR
ADJACENT PROPERTY**

THIS AMENDED AND RESTATED GRANT OF EASEMENTS, DECLARATION OF USE RESTRICTIONS AND AGREEMENT FOR ADJACENT PROPERTY (the "Restated Adjacent Property Easement") is made, executed and delivered as of the ___ day of March, 2005, effective on the date of recordation hereof, by and between the **BURBANK-GLENDALE-PASADENA AIRPORT AUTHORITY**, a public entity formed pursuant to the California Joint Exercise of Powers Act ("Authority") and the **CITY OF BURBANK**, a municipal corporation ("City"), with reference to the following facts:

A. On June 25, 1999, the Superior Court entered a judgment in condemnation in *Burbank-Glendale-Pasadena Airport Authority v. Lockheed Corporation, et al.*, Los Angeles County Superior Court Case No. BC 155222 (the "Condemnation Action"), an eminent domain proceeding filed by the Authority to condemn for public use the real property, the portion of which has not been conveyed to a third party other than the Trustee is described in Exhibit "1" (the "B-6 Property"). On November 19, 1999, the Court entered a Final Order of Condemnation ("Final Order") containing the terms under which the condemnation proceedings concerning the B-6 Property was concluded.

B. On November 23, 1999, the Authority and the City entered into that certain GRANT OF EASEMENTS, DECLARATION OF USE RESTRICTIONS AND AGREEMENT FOR ADJACENT PROPERTY (the "Original Easement"), which was recorded in the official county records of Los Angeles on December 2, 1999, as Document No. 99-2219083. On February 26, 2003, the Authority and the City entered

into that certain FIRST AMENDMENT TO GRANT OF EASEMENT, DECLARATION OF USE RESTRICTIONS AND AGREEMENT FOR ADJACENT PROPERTY (the "First Amendment"). The Original Easement, as amended by the First Amendment is referred to herein as the "Adjacent Property Easement." The parties desire to amend and restate the Adjacent Property Easement in this Restated Adjacent Property Easement.

C. Concurrently with the execution of this Restated Adjacent Property Easement, the Authority and the City have executed an Amended, Restated and Superseding Combined Escrow and Trust Agreement (the "Escrow and Trust Agreement"), pursuant to which the Authority and the City have agreed to the reimposition of easements and restrictions on the use of the B-6 Property as set forth in this Restated Adjacent Property Easement and an Amended and Restated Grant of Easements, Declaration of Use Restrictions and Agreement for Trust Property (the "Restated Trust Property Easement"), executed concurrently herewith by the Authority, the City and The Bank of New York Trust Company, N.A., a national banking association organized and existing under the laws of the United States of America, as trustee (the "Trustee").

D. Pursuant to the Final Order, all of the right, title and interest in that portion of the B-6 Property shown on the Map and legally described in Exhibit "2" (the "Adjacent Property") has been conveyed to the Authority.

E. The City is the owner of the real property legally described in Exhibit "3", situated adjacent to or in the immediate vicinity of the B-6 Property (the "City Property").

F. Pursuant to the Escrow and Trust Agreement, the Authority and the City desire to enter into and thereafter record, this Restated Adjacent Property Easement, for the purpose of establishing the use restrictions and easements provided for in the Escrow and Trust Agreement as use restrictions and easements in favor of the City and the City Property, and as covenants running with the Adjacent Property, or any portion thereof, and the City Property, or any portion thereof.

G. The parties intend that the easements and covenants provided for herein shall run in favor of and benefit the City, both in its capacity as a governmental body with regulatory authority over the Adjacent Property pursuant to its land use ordinances and regulations and the rights provided for under Public Utilities Code Section 21661.6 ("PUC Section 21661.6") and in its proprietary capacity as the owner of the City Property and other real property within its boundaries.

H. References herein to "the Authority" and "the City" shall include the grantees, successors and assigns of the Authority and the City, as applicable.

THEREFORE, the Adjacent Property Easement is hereby restated and amended, as of the date of recordation hereof, as follows:

1. Grant of Easements. For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Authority grants to the

City, as easements appurtenant to and for the benefit of the City Property, and in gross, for the benefit of the City in its governmental and proprietary capacities, the following easements over, upon, in and to the Adjacent Property (the "Adjacent Property Easements"): (a) no structure shall be constructed, built, erected or placed on the Adjacent Property within the Building Restriction Line ("BRL"), as shown on the Authority's Revalidated Airport Layout Plan ("ALP"), approved by the Federal Aviation Administration ("FAA") on August 25, 2004, a copy of which is attached as Exhibit "4", except as provided in Burbank City Council Resolution No. 26,894; (b) no portion of the Adjacent Property shall be used for any purpose other than the uses explicitly permitted by the City pursuant to its authority under PUC Section 21661.6; and (c) except as provided in Burbank City Council Resolution No. 26,894, no portion of the Adjacent Property shall be used for any structure, construction or development project to expand or enlarge the Airport. The Adjacent Property Easements shall apply to temporary as well as permanent uses; provided, however, that the Authority may conduct the following temporary activities on the Adjacent Property: (i) demolition of improvements and extraction of subsurface structures that exist as of the effective date or may be constructed, built, erected or placed on the Adjacent Property in accordance with this Escrow and Trust Agreement provided all such activities are diligently prosecuted to completion once any such activity is commenced; (ii) grading, to a level grade promptly following the demolition and/or removal of improvements and subsurface structures provided that the grading is diligently prosecuted to completion once it is commenced; (iii) environmental investigations and remediation expressly required by a government agency acting pursuant to its delegated authority or by a court of competent jurisdiction; and (iv) maintenance required to comply with applicable laws and regulations, trash and debris removal, mowing, weed abatement, maintenance of drainage system and runoff control systems, and dust control activities. The Adjacent Property Easements shall apply notwithstanding any potentially contrary authority and shall preclude, without limitation, use of the Adjacent Property for temporary overflow vehicle parking and aircraft parking.

2. Use Restrictions. For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Authority declares that the Adjacent Property shall be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied and improved subject to the following covenants, conditions, restrictions and limitations (the "Adjacent Property Use Restrictions"): (a) no structure shall be constructed, built, erected or placed on the Adjacent Property within the BRL shown on the ALP, except as provided in Burbank City Council Resolution No. 26,894; (b) no portion of the Adjacent Property shall be used for any purpose other than the uses explicitly permitted by the City pursuant to its authority under PUC Section 21661.6; and (c) except as provided in Burbank City Council Resolution No. 26,894, no portion of the Adjacent Property shall be used for any structure, construction or development project to expand or enlarge the Airport. The Adjacent Property Use Restrictions shall apply to temporary as well as permanent uses; provided, however, that the Authority may conduct the following temporary activities on the Adjacent Property: (i) demolition of improvements and extraction of subsurface structures that exist as of the effective date or may be constructed, built, erected or placed on the Adjacent Property in accordance with this Escrow and Trust Agreement provided all such activities are diligently prosecuted to

completion once any such activity is commenced; (ii) grading, to a level grade promptly following the demolition and/or removal of improvements and subsurface structures provided that the grading is diligently prosecuted to completion once it is commenced; (iii) environmental investigations and remediation expressly required by a government agency acting pursuant to its delegated authority or by a court of competent jurisdiction; and (iv) maintenance required to comply with applicable laws and regulations, trash and debris removal, mowing, weed abatement, maintenance of drainage system and runoff control systems, and dust control activities. The Adjacent Property Use Restrictions shall apply notwithstanding any potentially contrary authority and shall preclude, without limitation, use of the Adjacent Property for temporary overflow vehicle parking and aircraft parking.

3. Use Restrictions Run with Land. The Adjacent Property Use Restrictions relate to the use, repair, maintenance or improvement of the Adjacent Property, shall constitute covenants running with the Adjacent Property and the City Property, or any portion thereof, shall constitute equitable servitudes imposed upon the Adjacent Property for the benefit of the City Property and the City, shall be binding upon all persons having or acquiring any right, title or interest in the Adjacent Property or any portion thereof, and shall be for the benefit of the City Property and each and every successor to the City as owner of the City Property, or any portion thereof.

4. Effectiveness of Easements and Use Restrictions. The Adjacent Property Easements and Adjacent Property Use Restrictions provided for in Sections 1 and 2 hereof shall become effective immediately upon the recordation hereof, and the Adjacent Property shall thereafter be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied and improved subject to the terms of this Restated Adjacent Property Easement.

5. Additional Documents. The Authority and the City shall execute, acknowledge, deliver and record such additional documents as may reasonably be required from time to time in order to effectuate fully the purposes of this Restated Adjacent Property Easement.

6. Dispute Resolution Procedure.

6.1 Informal Dispute Resolution Panel. In the event that a dispute arises in connection with or respect to this Restated Adjacent Property Easement, either party may submit the dispute to an informal dispute resolution panel (the "Panel") consisting of one retired judge appointed by each party and a third member agreed upon by both parties who shall be a professional with at least ten years' experience in land use and airport planning. The Panel shall be selected within ten (10) days after either party notifies the other party that it has elected to submit the dispute to a Panel. In the event the parties are unable to agree on the third member, then the two appointed members shall select the third member within seven (7) days after expiration of the ten (10) day period. The Panel shall meet and hold an informal hearing on the dispute within ten (10) days of appointment. Each party shall be entitled to submit a written statement of its position regarding the dispute to the Panel at or before the hearing, and each party shall

be entitled to make an oral presentation to the Panel during the hearing, which presentation shall not exceed thirty (30) minutes in length. The Panel may establish rules of procedure for the administration of this process. Not later than twenty (20) days after the Panel's first meeting on the alleged default and dispute, the Panel shall propose a resolution of the parties' dispute. The Panel shall have no power to impose any resolution or specific action and its decisions shall not be binding on the parties. The parties shall review the Panel's proposed resolution and a City staff representative shall meet with an Authority staff representative at least one time within ten (10) days after issuance of the Panel's determination and proposed resolution to seek to resolve their differences over the alleged default. If the parties are unable to resolve their differences after such meeting or if one party fails to cooperate or participate in the dispute resolution process, the parties may proceed to invoke any other remedies at law or in equity (including the right to injunctive relief).

6.2 No Legal Proceedings During Alternative Dispute Resolution. In order to ensure that the alternative dispute resolution procedures of this Section are used before a court challenge over a dispute arises, the parties shall proceed in accordance with this Section and neither party may proceed with any other remedies at law, equity or until the process set forth in this Section has been completed. During any period that the procedures in this Section are being complied with, the party alleged to be in default shall not be considered in default for the purposes of termination or institution of legal proceedings. If the default is cured, then no default shall exist and the noticing party shall take no further action. Notwithstanding the preceding provisions of this paragraph, nothing contained herein is intended to abrogate either party's ability to seek extraordinary relief from the courts to compel or enjoin another party's action when irreparable harm will be caused by the delay in completing the alternative dispute resolution procedures of this section, or when other grounds for extraordinary relief are satisfied, as provided in Code of Civil Procedure Section 526 or other applicable provisions of law.

6.3 Traditional Remedies. Upon completion of the procedures contained in Subsections 6.1 and 6.2, or upon the mutual written waiver of the procedures of this Section 6, either party may institute legal proceedings to seek relief for the default of the other party.

7. Release or Termination of Easements and Use Restrictions.

7.1 Action by City. Upon becoming effective as provided in Section 4 hereof, the Adjacent Property Easements and Adjacent Property Use Restrictions set forth in Sections 1 and 2 hereof shall remain in full force and effect unless and until terminated by the City. In the event that one or more of the Adjacent Property Easements or Adjacent Property Use Restrictions is terminated by the City, the City shall execute, acknowledge and cause to be recorded an appropriate instrument (the "Termination Instrument") modifying, releasing or terminating the applicable Adjacent Property Easement(s) or Adjacent Property Use Restriction(s) without the need for consent of, or authorization by, any other party, including without limitation the Authority or the Trustee.

7.2 Termination or Release by City of Adjacent Property Easements and Adjacent Property Use Restrictions. In no event shall the City be required to release or terminate any of the Adjacent Property Easements or Adjacent Property Use Restrictions.

8. Attorneys' Fees. In any action or proceeding for the enforcement or interpretation of this Restated Adjacent Property Easement, the prevailing party shall be awarded, in addition to taxable costs, damages, injunctive or other relief, its actual costs and expenses incurred in such action or proceeding, including but not limited to, its reasonable attorneys' fees.

9. Construction with Prior Agreements, Severability. This Restated Adjacent Property Easement completely supersedes and restates the Adjacent Property Easement and any amendments thereto. If any provision, paragraph, or subparagraph of this Restated Adjacent Property Easement is adjudged by any court to be invalid, illegal, or unenforceable in whole or in part, this adjudication will not affect the validity of the remainder of this Restated Adjacent Property Easement, including any other provision, paragraph, or subparagraph.

IN WITNESS WHEREOF, the parties have executed this Restated Adjacent Property Easement as of the date first set forth above.

"Authority"

BURBANK-GLENDALE-PASADENA AIRPORT AUTHORITY, a public entity formed pursuant to the California Joint Exercise of Powers Act

By: Charles Lombardo
Its: President

"City"

CITY OF BURBANK, a municipal corporation

By: Mary Alvord
Its: City Manager



ATTEST:

BY: Margarita Campos
MARGARITA CAMPOS
CITY CLERK