

**MODIFICATION NO. 1 TO
LEASE OF PLOT 6**

**SAN FRANCISCO INTERNATIONAL AIRPORT
UNITED AIR LINES, INC.**

THIS MODIFICATION OF AGREEMENT (this "**Modification**") dated as of July 1, 2011, is entered into by and between the City and County of San Francisco, acting by and through its Airport Commission ("**City**"), and United Air Lines, Inc. ("**Airline**").

Recitals

A. The City and County of San Francisco owns the San Francisco International Airport (the "**Airport**") located in the County of San Mateo, State of California, which Airport is operated by and through the Airport Commission, the chief executive officer of which is the Airport Director.

B. Pursuant to Airport Commission Resolution No. 00-0464, dated December 19, 2000, and Board of Supervisors' Resolution No. 403-01 on June 1, 2001, Airline became a signatory to the Lease of Plot 6 (Lease No. L00-0464) whereby Airline occupies approximately 16.04 acres of land at Plot 6, together with existing City owned buildings and structures including Buildings 575 and 585, for a period of twelve (12) years and one (1) month commencing retroactively to June 1, 1999 and expiring on June 30, 2011 (the "**Lease**"). As used below, the term "**Lease**" shall mean the Lease as amended and modified by this Modification.

C. Pursuant a Letter Agreement dated October 30, 2008, also known as Sublease No. SL08-0189, Airline subleases portions of Building 575 and ancillary parking (the "**Sublease**") to the City for occupancy by Airport staff, which Sublease expires on June 30, 2011. A copy of the Letter Agreement is incorporated herein and attached hereto as *Exhibit A*.

D. Subject to all required approvals, the Sublease provides for a future Lease modification wherein the Term of the Lease will be extended for a additional ten (10) years (the "**Lease Extension**"), effective July 1, 2011 (the "**Lease Extension Date**"), the Demised Premises will be modified to exclude Building 575 in its entirety and related parking areas, and upon the terms and conditions as set forth below.

E. The Sublease also provides that, pursuant to the modification, Airline shall pay to City, in addition to Annual Rent as provided for in Section 4 [Rent] of the Lease, a Deferred City Improvements Payment, as more fully described in Section 6 below.

F. The City has offered, and Airline has accepted, a Lease Extension and other modified terms of the Lease pursuant to this Modification No. 1 thereto.

G. As the required approvals cannot be obtained from the Board of Supervisors prior to the expiration of the Lease, and pursuant to Section 2.2 of the Lease, the Term will convert to hold over status pursuant to certain negotiated terms and conditions for the hold over period and Lease modification.

H. Airline and City now desire to modify the terms of the Lease to: 1) extend the Term, 2) modify the Demised Premises, 3) modify the Annual Rent, 4) provide for the Deferred City

Improvements Payment, 5) provide for certain terms of retroactivity relating to the rent and Deferred City Improvements Payment, and other ancillary changes.

NOW THEREFORE, in consideration of the foregoing and of the mutual covenants set forth herein, and other good and valuable consideration, receipt of which is hereby acknowledged, the parties do mutually agree as follows:

1. Effective Date; Defined Terms.

(a) The effective date (the “**Effective Date**”) of this Modification shall be retroactive to July 1, 2011 conditioned upon the following conditions: (1) the Airport Commission and Board of Supervisors shall have approved this Modification; and (2) both parties have executed this Modification.

(b) Capitalized terms not defined herein shall have the meanings given them in the Agreement.

2. Term. The Term of the Lease shall be extended for ten (10) years commencing on July 1, 2011 and terminating on June 30, 2021 (the “**Lease Extension Period**”).

3. Demised Premises.

(a) **Demised Premises After Effective Date.** From and after the Effective Date, the Demised Premises will be comprised of 12.54 acres of land, including 12.514 acres situated on a portion of Plot 6, together with the existing Building 585, and .025 acres situated within the Building 575 parking lot, together with an existing electric substation and a Rights-of-Way thereto.

(b) **Reservation of Right to Recapture Land.** In order to accommodate the commencement of operations of the Airbus A-380 aircraft at the Airport, City reserves the right to recapture a portion of the Demised Premises, and provide alternative land as deemed available and in consultation with Airline. In the event of such recapture, City will adjust the Annual Rent accordingly, effective on the date the City takes possession of such recaptured land.

4. Annual Rent. The Annual Rent for the first Lease Year of the Lease Extension Period shall be One Million Six Hundred Thirty Eight Thousand, Two Hundred Eight Dollars (\$1,638,208), based on a fair market value of \$130,910 per acre per year for 12.514 acres of land.

From and after the Effective Date, Section 4 [Rent] shall be modified by deletion of Sections 4.1, 4.3 and 4.4 in their entirety and replaced by the following Sections 4.1, 4.3 and 4.4:

4.1 Definitions. For purposes of this Lease, the following capitalized terms shall have the following meanings:

(a) “**Consumer Price Index**” means that index published by the United States Department of Labor, Bureau of Labor Statistics known as “All Urban Consumers - All Items for the San Francisco/Oakland/San Jose Area (1982-84 = 100).” In the event such index is discontinued, then “**Consumer Price Index**” shall mean an index chosen by Director, which is, in Director’s reasonable judgment, comparable to the index specified above.

(b) “**Rent Adjustment Date**” means the first anniversary of the Lease Extension Date, and each anniversary of such adjustment date thereafter.

(c) “**Base Index**” means the most recent Consumer Price Index published three (3) months prior to the Lease Extension Date.

(d) “**Comparison Index**” means the most recent Consumer Price Index published three (3) months prior to each Rent Adjustment Date.

(e) “**Lease Year**” means the period commencing on the Commencement Date and expiring on the day before the first Rent Adjustment Date, and each subsequent 12-month period, commencing on each Rent Adjustment Date and expiring on the day before the subsequent Rent Adjustments Date, or expiring on the Expiration date, as the case may be.

4.3 Adjustments to Annual Rent. On each Rent Adjustment Date, the Annual Rent will be adjusted as follows: if the Comparison Index shall exceed the Base Index, then the annual Rent with respect to the upcoming Lease Year shall be increased to equal the following amount:

$$\text{Annual Rent commencing July 1, 2011} \times \frac{\text{Comparison Index}}{\text{Base Index}}$$

Notwithstanding anything to the contrary herein, in no event will the Annual Rent for any Lease Year of the Term be lower than the Annual Rent with respect to the prior Lease Year.

4.4 Rent Adjustment on the Sixth Lease Year of the Lease Extension Period. On the fifth (5th) Rent Adjustment Date after the Lease Extension Date, in lieu of the annual adjustment set forth in Section 4.3 [Adjustments to Annual Rent], Annual Rent shall be reviewed and adjusted upward to equal the greater of the Annual Rent in effect in the fifth (5th) Lease Year of the Lease Extension Period, as may have been adjusted pursuant to Section 4.3, and the fair market value for the land as determined by reappraisal. City, at its own expense, shall cause an independent appraisal of the Premises by a third party appraiser through the City’s Real Estate Division to determine the extent to which the value of such land has increased over the value of the land as reflected in the current Annual Rent. Upon comparison of the two values, the Annual Rent hereunder shall be adjusted to reflect the appropriate increase. Notwithstanding the above, once the Annual Rent has been adjusted for the sixth (6th) Lease Year of the Lease Extension Period, the Annual Rent shall be adjusted annually thereafter by CPI adjustment, as provided in Section 4.3 above, except that such adjustment mechanism shall be modified as follows:

4.4.1 Annual Rent will be equal to the Annual Rent effective for the first (1st) Lease Year of the Lease Extension Period pursuant to this Section 4.4.

4.4.2 Base Index will be equal to the Consumer Price Index published three (3) months prior to Lease Extension Date.

4.4.3 Notwithstanding anything to the contrary herein, in no event will the Annual Rent of any Lease Year of the Term be lower than the Annual Rent with respect to the prior Lease Year.

5. Term and Conditions for the Hold Over Period. The City and Airline have negotiated certain terms and conditions for the hold over period as follows:

(a) Airline will continue to pay the land rent at the current rate of \$173,423.22 per month, based on a rate of \$129,743.14 per acre per year, until this Modification is fully approved.

(b) The City's Sublease with Airline will be extended on all the same terms and conditions except that the Net Sublease Rent (Sublease Rent net of the "Improvement Deduction" as defined in the Sublease) of \$11,064 per month will be abated.

(c) Airline's obligation to pay the Deferred City Improvements Payment will be deferred until this Modification is fully approved.

(d) Upon full approval by the City, the City will issue a retroactive rental credit to Airline equal to \$62,735.72 for each month beginning July 2011 and ending upon full City approval. Such monthly credit is comprised of: 1) the variance between the current rent for June 2011 and the modified rent that will go into effect retroactive to July 2011 (\$36,906.02); and 2) the land rent paid by Airline for the land under the Subleased space occupied by the City (\$25,829.70).

6. Exhibits. From and after the Effective Date, Exhibits A and B shall be deleted in their entirety and substituted with Airport Drawing No. UAPLOT6, dated May 26, 2011, incorporated herein and attached hereto as *Exhibit B*.

7. Deferred City Improvements Payment. In addition to the Annual Rent for the land, Airline shall pay to City the Deferred City Improvements Payment in a lump sum equal to \$696,000 at the commencement of the Lease Extension Period or in sixty (60) equal payments of Eleven Thousand Six Hundred Dollars (\$11,600) per month over the first five (5) years of the Lease Extension Period. The "**Deferred City Improvements Payment**" shall mean a payment equal to \$696,000 for the deferred cost of certain remediation work in Building 575 required to make the Subleased space habitable for City, as performed by City on behalf of Airline, as more fully set forth in the Sublease, dated October 30, 2008, incorporated herein and attached hereto as *Exhibit A*. The obligation to pay the Deferred City Improvements Payment will commence on the first day of the month following full approval of this Modification by the City.

8. City and Other Governmental Provisions. The following sections are hereby added to the Lease as follows:

8.1 No Advertising or Promotions; Prohibition of Tobacco Advertising. Airline shall have no right to conduct any advertising or promotional activities on the Airport. Airline acknowledges and agrees that no advertising of cigarettes or tobacco products is allowed on any real property owned by or under the control of the City, including the Demised Premises and the Airport. This prohibition includes the placement of the name of a company producing, selling or distributing cigarettes or tobacco products or the name of any cigarette or tobacco product in any promotion of any event or product. This prohibition does not apply to any advertisement sponsored by a state, local or nonprofit entity designed to communicate the health hazards of cigarettes and tobacco products or to encourage people not to smoke or to stop smoking.

8.2 Requiring Health Benefits for Covered Employees.

A. Unless exempt, Airline agrees to comply fully with and be bound by all of the provisions of the Health Care Accountability Ordinance (HCAO), as set forth in San Francisco Administrative Code Chapter 12Q, including the remedies provided, and implementing regulations, as the same may be amended from time to time. The provisions of Chapter 12Q are incorporated herein by reference and made a part of this Agreement as though fully set forth. The text of the HCAO is available on the web at <http://www.sfgov.org/olse>. Capitalized terms used in this Section and not defined in this Agreement shall have the meanings assigned to such terms in Chapter 12Q.

B. For each Covered Employee, Airline shall provide the appropriate health benefit set forth in Section 12Q.3 of the HCAO. If Airline chooses to offer the health plan option, such health plan shall meet the minimum standards set forth by the San Francisco Health Commission.

C. Notwithstanding the above, if the Airline is a small business as defined in Section 12Q.3(d) of the HCAO, it shall have no obligation to comply with Subsection (A) above.

D. Airline's failure to comply with the HCAO shall constitute a material breach of this Agreement. City shall notify Airline if such a breach has occurred. If, within thirty (30) days after receiving City's written notice of a breach of this Agreement for violating the HCAO, Airline fails to cure such breach or, if such breach cannot reasonably be cured within such period of thirty (30) days, Airline fails to commence efforts to cure within such period, or thereafter fails diligently to pursue such cure to completion, City shall have the right to pursue the remedies set forth in Sections 12Q.5.1, 12Q.5(f)(1-6). Each of these remedies shall be exercisable individually or in combination with any other rights or remedies available to City.

E. Any Subcontract entered into by Airline shall require the Subcontractor to comply with the requirements of the HCAO and shall contain contractual obligations substantially the same as those set forth in this Section. Airline shall notify City's Purchasing Department when it enters into such a Subcontract and shall certify to the Purchasing Department that it has notified the Subcontractor of the obligations under the HCAO and has imposed the requirements of the HCAO on Subcontractor through the Subcontract. Airline shall be responsible for its Subcontractors' compliance with this Chapter. If a Subcontractor fails to comply, the City may pursue the remedies set forth in this Section against Airline based on the Subcontractor's failure to comply, provided that City has first provided Airline with notice and an opportunity to obtain a cure of the violation.

F. Airline shall not discharge, reduce in compensation, or otherwise discriminate against any employee for notifying City with regard to Airline's compliance or anticipated compliance with the requirements of the HCAO, for opposing any practice proscribed by the HCAO, for participating in proceedings related to the HCAO, or for seeking to assert or enforce any rights under the HCAO by any lawful means.

G. Airline represents and warrants that it is not an entity that was set up, or is being used, for the purpose of evading the intent of the HCAO.

H. Airline shall maintain employee and payroll records in compliance with California Labor Code and Industrial Welfare Commission orders.

I. Airline shall keep itself informed of the current requirements of the HCAO.

J. Airline shall provide reports to the City in accordance with any reporting standards promulgated by the City under the HCAO, including reports on Subcontractors and Subtenants, as applicable.

K. Airline shall provide City with access to records pertaining to compliance with HCAO after receiving a written request from City to do so and being provided at least ten (10) business days to respond.

L. Airline shall allow City to inspect Airline's Demised Premises and to have access to Airline's employees in order to monitor and determine compliance with HCAO.

M. City may conduct random audits of Airline to ascertain its compliance with HCAO. Airline agrees to cooperate with City when it conducts such audits.

N. If Airline is exempt from the HCAO when this Agreement is executed because its amount is less than twenty-five thousand dollars (\$25,000), but Airline later enters into an agreement or agreements that cause Airline's aggregate amount of all agreements with City to reach seventy-five thousand dollars (\$75,000), all the agreements shall be thereafter subject to the HCAO. This obligation arises on the effective date of the agreement that causes the cumulative amount of agreements between Airline and the Contracting Department to be equal to or greater than seventy-five thousand dollars (\$75,000) in the Fiscal Year.

8.3 Notification of Limitations on Contributions. Through its execution of this Agreement, Airline acknowledges that it is familiar with Section 1.126 of the San Francisco Campaign and Governmental Conduct Code, which prohibits any person who contracts with the City for the selling or leasing any land or building to or from the City whenever such transaction would require approval by a City elective officer or the board on which that City elective officer serves, from making any campaign contribution to the officer at any time from the commencement of negotiations for such contract until the termination of negotiations for such contract or three (3) months has elapsed from the date the contract is approved by the City elective officer, or the board on which that City elective officer serves.

8.4 Compliance with Laws. Airline shall keep itself fully informed of the City Charter, codes, ordinances and regulations of the City and of all State, and federal laws in any manner applicable to the performance of this Agreement, and must at all times comply with such applicable local codes, ordinances, and regulations and all applicable laws as they may be amended from time to time.

8.5 Airport Intellectual Property. Pursuant to Resolution No. 01-0118, adopted by the Airport Commission on April 18, 2001, the Airport Commission affirmed that it will not tolerate the unauthorized use of its intellectual property, including the SFO logo, CADD designs, and copyrighted publications. All proposers, bidders, contractors, tenants, permittees, and others doing business with or at the Airport (including subcontractors and subtenants) may not use the Airport intellectual property, or any intellectual property confusingly similar to the Airport intellectual property, with the Airport Director's prior consent.

8.6 Food Service Waste Reduction. If and to the extent applicable, the Airline agrees to comply fully with and be bound by all of the applicable provisions of the Food Service Waste Reduction Ordinance, as set forth in the San Francisco Environment Code, Chapter 16, including the remedies provided therein, and implementing guidelines and rules. The provisions of Chapter 16 are incorporated herein by reference and made a part of this Agreement as though fully set forth herein. Accordingly, Airline acknowledges that City contractors and lessees may not use Disposable Food Service Ware that contains Polystyrene Foam in City Facilities and while performing under a City contract or lease, and shall instead use suitable Biodegradable/Compostable or Recyclable Disposable Food Service Ware. This provision is a material term of this Agreement. By entering into this agreement, Airline agrees that if it breaches this provision, City will suffer actual damages that will be impractical or extremely difficult to determine; further, Airline agrees that the sum of one hundred dollars (\$100.00) liquidated damages for the first breach, two hundred dollars (\$200.00) liquidated damages for the second breach in the same year, and five hundred dollars (\$500.00) liquidated damages for subsequent breaches in the same year is a reasonable estimate of the damage that City will incur based on the violation, established in light of the circumstances existing at the time this agreement was made. Such amounts shall not be considered a penalty, but rather agreed monetary damages sustained by City because of Airline's failure to comply with this provision.

8.7 Labor Disputes. Airline agrees to use commercially reasonable efforts to avoid disruption to City, other Air Carriers, Airport tenants, or members of the public arising from labor disputes involving Airline, and in the event of a strike, picketing, demonstration or other labor difficulty involving Airline, to use commercially reasonable efforts, including the utilization of available legal remedies, to minimize or eliminate any disruption to City, other Air Carriers, Airport tenants, or members of the public, arising from such strike, picketing, demonstration or other labor difficulty.

8.8 Preservative-Treated Wood Containing Arsenic. As of July 1, 2003, Airline may not purchase preservative-treated wood products containing arsenic in the performance of this Agreement unless an exemption from the requirements of Environment Code Chapter 13 is obtained from the Department of Environment under Section 1304 of the Environment Code. The term "preservative-treated wood containing arsenic" shall mean wood treated with a preservative that contains arsenic, elemental arsenic, or an arsenic copper combination, including, but not limited to, chromated copper arsenate preservative, ammoniac copper zinc arsenate preservative, or ammoniacal copper arsenate preservative. Airline may purchase preservative-treated wood products on the list of environmentally preferable alternatives prepared and adopted by the Department of Environment. This provision does not preclude Airline from purchasing preservative-treated wood containing arsenic for saltwater immersion. The term "saltwater immersion" shall mean a pressure-treated wood that is used for construction purposes or facilities that are partially or totally immersed in saltwater.

9. Full Force and Effect. As modified hereby, each and every one of the terms, conditions, and covenants in the Agreement shall remain in full force and effect.

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IN WITNESS WHEREOF, the parties hereto have executed this Modification in duplicate by their duly authorized officers the day and year first hereinabove written.

AIRLINE: United Air Lines, Inc.

By: Kate Gebo
Name: Kate Gebo
Title: Vice President, Corporate Real Estate

By: _____
Name: _____
Title: _____

CITY: CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation,
acting by and through its Airport Commission

John L. Martin
John L. Martin
Airport Director

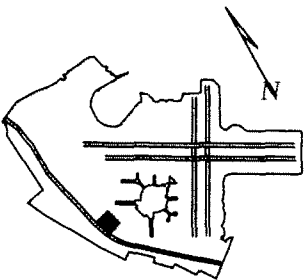
AUTHORIZED BY AIRPORT
COMMISSION

Resolution No. 11-0135
Adopted: June 7 2011
Attest: [Signature]
Secretary
Airport Commission

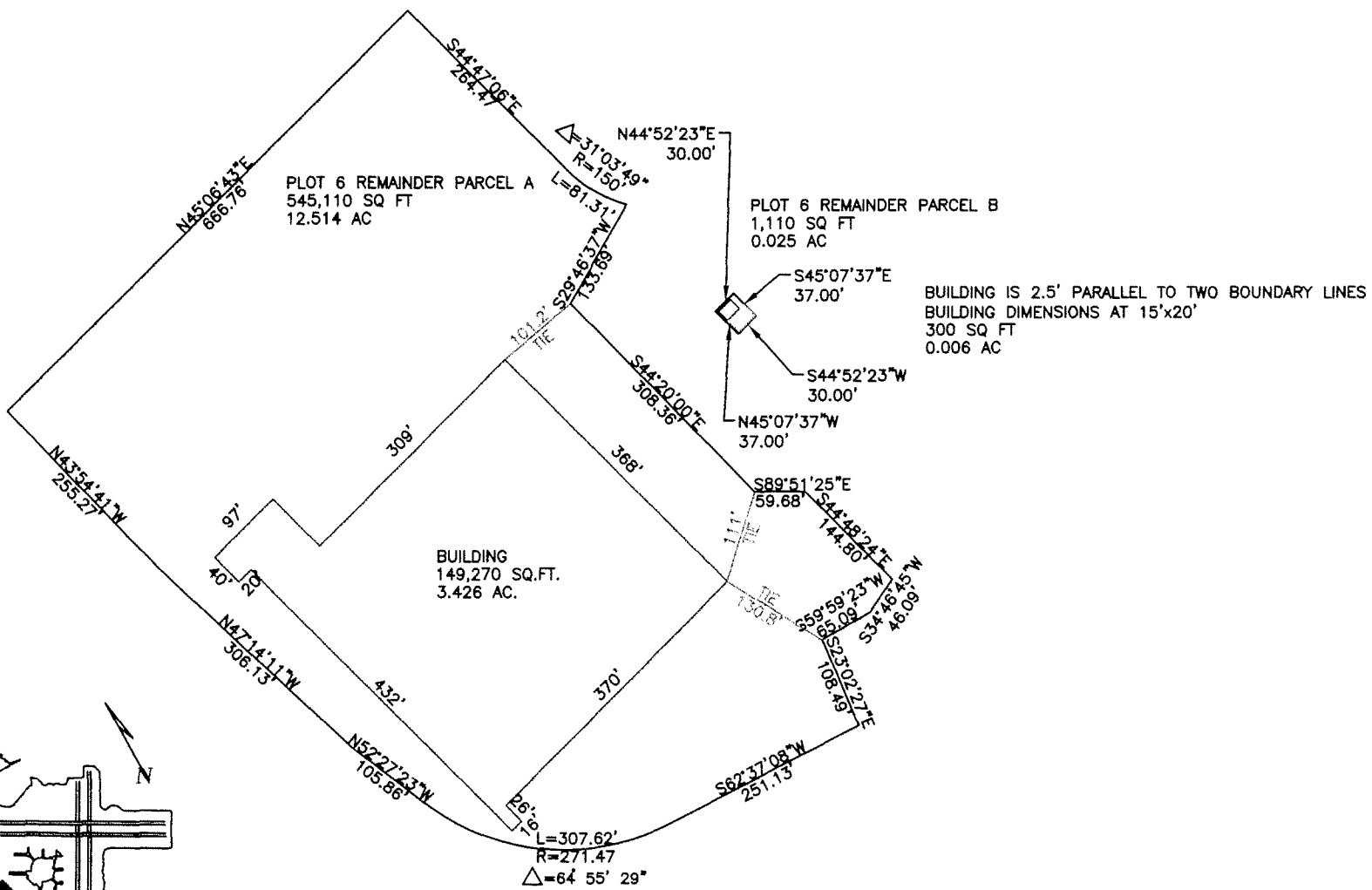
APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By: [Signature]
Deputy City Attorney

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KEY PLAN



| TENANT LOCATION LEASE DRAWING | | LOCATION | TENANT | CAT | AREA | CONTRACT | EFF DATE |
|--|-------------------|----------|--------|-----|-----------|----------|----------|
| | | PARCEL A | UA | | 12,514 ac | | |
| LOCATION: PLOT 6 - REMAINDER PARCELS A AND B | | PARCEL B | UA | | .025 ac | | |
| UNITED AIRLINES | | | | | | | |
| CITY & COUNTY OF SAN FRANCISCO | DWG: UAPLOT6 | | | | | | |
| AIRPORTS COMMISSION | SCALE: 1"=100'-0" | | | | | | |
| SAN FRANCISCO INTERNATIONAL AIRPORT | DATE: 05/26/2011 | | | | | | |