

File No. 140315

Committee Item No. 4

Board Item No. 6

### COMMITTEE/BOARD OF SUPERVISORS

#### AGENDA PACKET CONTENTS LIST

Committee: Rules

Date May 15, 2014

Board of Supervisors Meeting

Date June 3, 2014

#### Cmte Board

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| <input type="checkbox"/>            | <input type="checkbox"/>            | Resolution                                   |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Ordinance                                    |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Legislative Digest                           |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Budget and Legislative Analyst Report        |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Youth Commission Report                      |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Introduction Form                            |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/>            | <input type="checkbox"/>            | MOU  |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Grant Information Form                       |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Grant Budget                                 |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Subcontract Budget                           |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Contract/Agreement                           |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Form 126 – Ethics Commission                 |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Award Letter                                 |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Application                                  |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Public Correspondence                        |

#### OTHER

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Completed by: Alisa Miller

Date May 9, 2014

Completed by: Alisa Miller

Date May 29, 2014

1 [Settlement of Claim - American Airlines, Inc. - Assumption of Lease Obligations and  
2 Allocation of Relocation Reimbursement Credits]

3 **Ordinance authorizing the settlement of the bankruptcy claim filed by the City and**  
4 **County of San Francisco against American Airlines, Inc., and its affiliated entities in In**  
5 **re: American Airlines, Inc., et al., Case No. 11-15463 SHS, United States Bankruptcy**  
6 **Court for the Southern District of New York, pursuant to a Cure Stipulation; the Cure**  
7 **Stipulation resolves the claim filed by the City and provides for American's assumption**  
8 **of its leases, permits, and related agreement related to American's operations at San**  
9 **Francisco International Airport; under the Cure Stipulation, the Airport will apply**  
10 **certain credits owed by Airport related to American's interim relocation from Terminal 3**  
11 **Boarding Area E to Terminal 2 Boarding Area D to the amounts owed by American**  
12 **under its leases, permits, and related obligations; further, the Airport will apply the**  
13 **remaining amount of the relocation related credits to American's future obligations; the**  
14 **Cure Stipulation further provides for American's assumption of an agreement related to**  
15 **environmental clean-up and monitoring costs at the Airport.**

16  
17 Be it ordained by the People of the City and County of San Francisco:

18 Section 1. Pursuant to Charter Section 6.102(5), the Board of Supervisors hereby  
19 authorizes the City Attorney to settle the City's bankruptcy claim against American in the  
20 Bankruptcy Case on the terms and conditions specified in the Cure Stipulation on file with  
21 Clerk of the Board in File No. 140315.

22 Section 2. The material terms of the Cure Stipulation include American Airlines, Inc.  
23 and its affiliated entities (together, "American") agreeing to continue to perform its obligations  
24 under and otherwise assume, pursuant to 11 U.S.C. § 365, its leases and agreements (the  
25 "Leases") with San Francisco International Airport ("Airport"). In satisfaction of American's

1 cure obligations under the Leases, the Airport shall credit certain relocation reimbursement  
2 costs, in the amount of \$1,033,477.49. The relocation reimbursement costs arose pursuant to  
3 a Memorandum of Understanding between the Airport and American, dated March 15, 2010,  
4 and the relocation reimbursement costs relate to American's interim relocation from Terminal  
5 3 Boarding Area E to Terminal 2 Boarding Area D. The Airport will apply \$2,722,116.73, the  
6 remainder of the \$3,755,594.22 relocation reimbursement amount (after reduction for the cure  
7 amount), to future rental charges incurred by American under the Leases. In addition,  
8 American will assume, pursuant to 11 U.S.C. § 365, the Settlement and Release Agreement  
9 executed in August 2004. Under the Settlement and Release Agreement, American agrees to  
10 reimburse the Airport, on a pay-as-you-go basis, 6.74% of future environmental clean-up and  
11 monitoring costs incurred by the Airport after October 1, 2003. Further, the Cure Stipulation  
12 provides that American shall have the option to co-locate in Terminal 2 and to eliminate the  
13 Exclusive Use and Joint Use Space leased by US Airways in Terminal 1 and Boarding Area B  
14 under the US Airways Lease Agreement (as defined in the Cure Stipulation). Finally,  
15 American will replace its current surety bond with the City in the amount of \$5,086,449, with a  
16 surety bond in the amount of \$3,861,387.00.


17 Section 4. The City's claim was filed with the appropriate claims administrator as  
18 designated by the United States Bankruptcy Court of the Southern District of New York on  
19 July 12, 2012, and amended on or about August 12, 2012. In its claim, the City asserted a  
20 claim in the amount of \$1,067,677.49 for charges dues and owing pursuant to the Leases.  
21 The City further asserted a claim in an unknown amount for environmental clean-up and  
22 monitoring amounts that were due or that may become due pursuant to a Settlement and  
23 Release Agreement, executed by American and the City on or about October 14, 2004.  
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Under the Cure Stipulation, the City's claim is deemed withdrawn.

APPROVED AS TO FORM  
AND RECOMMENDED:

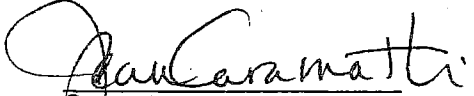
DENNIS J. HERRERA, City Attorney

By:   
David Serrano Sewell  
Deputy City Attorney

RECOMMENDED:

San Francisco Airport Commission

By:   
John L. Martin  
Airport Director

  
Secretary  
Airport Commission

## CURE STIPULATION

THIS Cure Stipulation ("**Stipulation**") is made and entered into as of this 5th day of June, 2013, by and between (i) the City and County of San Francisco, a municipal corporation, acting by and through its Airport Commission (the "**City**"); and (ii) American Airlines, Inc. ("**American**") and US Airways, Inc. ("**US Airways**") (together, the "**Parties**").

## RECITALS

A. The City and American have entered into those certain leases, permits and agreements set forth on **Exhibit A** attached hereto, as such have been subsequently modified, (collectively, and as amended herein, the "**American Agreements**") for use of premises at the San Francisco International Airport (the "**Airport**").

B. On November 29, 2011 (the "**Petition Date**"), American and its affiliate debtors (collectively, the "**Debtors**") filed in the United States Bankruptcy Court for the Southern District of New York (the "**Bankruptcy Court**"), voluntary petitions (collectively, the "**Chapter 11 Cases**") under Chapter 11 of Title 11 of the United States Code (the "**Bankruptcy Code**") and continue to operate their business as debtors-in-possession pursuant to Sections 1107 and 1108 of the Bankruptcy Code.

C. The City and US Airways have entered into that certain Lease and Use Agreement No. L11-0276 (as may be amended, modified, or supplemented from time to time (the "**US Airways Lease Agreement**"), for use of premises at the Airport.

D. On April 15, 2013, the Debtors filed the Debtors' Joint Chapter 11 Plan, as may be amended, supplemented, or modified from time to time (ECF No. 7631) (the "**Plan**").

E. The Plan contemplates a merger pursuant to the Agreement and Plan of Merger, dated February 13, 2013, by and among AMR Corporation, AMR Merger Sub, Inc., and US Airways Group, Inc. (the "**Merger Agreement**").

F. On May 10, 2013, the Bankruptcy Court entered the Order Authorizing and Approving (I) Merger Agreement Among AMR Corporation, AMR Merger Sub, Inc., and US Airways Group Inc., (II) Debtors' Execution and Performance Under Merger Agreement, (III) Certain Employee Compensation and Benefit Arrangements, (IV) Termination Fees, and (V) Related Relief (ECF No. 8096).

G. The City and American have negotiated an agreement as to the terms for American's assumption of the American Agreements in the Chapter 11 Cases, including the cure of American's prepetition defaults and the provision of adequate assurance of future performance required under Section 365(b)(1) of the Bankruptcy Code. Generally, the terms include, but are not limited to, the following: (i) the American Agreements shall not be modified to reduce the overall square footage of space leased by American; (ii) the Airport shall provide for application of certain rent credits under the Interim Relocation MOU (as defined below), to the cure amount owed by American; (iii) the City and American have entered into a postpetition Superbay Lease (as defined below); (iv) American shall assume the Environmental Obligations (as defined below); and (v) American and US Airways shall have the option to co-locate and eliminate

exclusive use space under the US Airways Lease Agreement on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the parties hereto agree to the following terms.

### TERMS

1. **Effective Date.** This Stipulation shall become effective on the Effective Date. As used herein, the term "Effective Date" means the first business day upon which all of the following conditions have been satisfied:

a. An order approving the assumption (which may include an order confirming a plan of reorganization providing for assumption) of the American Agreements, as modified hereby (the "Approval Order") shall have been entered by the Bankruptcy Court in the Chapter 11 Cases which order shall not have been stayed; and

b. fourteen days (as computed in accordance with Bankruptcy Rule 9006) shall have passed from the date of entry of the Approval Order; and

c. The Approval Order shall not have been reversed or modified on appeal and, if any such appeal is pending, the Approval Order shall not have been stayed; and

d. This Stipulation shall have been approved by the City and County of San Francisco's Airport Commission, its Board of Supervisors, and the Mayor; and

e. The City shall have received from American all amounts described in this Stipulation, including those amounts described on **Exhibit B**, in full and final satisfaction as cure of defaults under the assumed American Agreements as required by 11 U.S.C. § 363; and

f. In the event the Effective Date shall not have occurred on or before January 1, 2014 as such date may be extended by mutual written agreement of the parties, then this Stipulation shall be null and void.

2. **Reimbursement for Interim Move.** In accordance with the Memorandum of Understanding, dated March 15, 2010, between the City and American related to American's interim relocation from Terminal 3 and Boarding Area E to Terminal 2 Boarding Area D ("**Interim Relocation MOU**"), the City has reviewed and verified the construction costs under Interim Relocation MOU, Section 7, and has determined that American is eligible for reimbursement costs in the amount of Three Million Seven Hundred Fifty Five Thousand Five Hundred Ninety Four Dollars and Twenty Two Cents (\$ 3,755,594.22) (the "**Reimbursement Amount**").

3. **Cure Amount and Payment Terms.** Prior to the Petition Date, American has incurred rental charges and other charges pursuant to the American Agreements in the amount of

One Million Thirty Three Thousand Four Hundred Seventy Seven Dollars and Forty Nine Cents (\$1,033,477.49) and this amount is owed by American to the City (the "**Cure Amount**").

Subject to all of the terms, provisions and conditions set forth herein, including American's obligations to perform certain other actions described herein, in full and final satisfaction of American's obligation to cure all defaults under the American Agreements under Section 365(b)(1) of the Bankruptcy Code, the Parties agree to apply the Reimbursement Amount as a rent credit to the Cure Amount and to apply the remainder of the Reimbursement Amount, in the amount of Two Million Seven Hundred Twenty Two Thousand One Hundred Sixteen Dollars and Seventy Three Cents (\$2,722,116.73), to future rental charges and other charges incurred by American pursuant to the American Agreements. The City and American agree that the Interim Relocation MOU shall be deemed amended to reflect the terms set forth herein. The City and American further agree that no additional costs or Reimbursement Amounts, except for the Reimbursement Amount noted in Paragraph 2 above, shall be claimed by American under the Interim Relocation MOU.

4. **SuperBay Hangar Lease.** The City and American have executed a new SuperBay Hangar Lease [L13-0071] ("**SuperBay Lease**"), to replace the previous SuperBay Lease [L04-0221] in which American was -a "hold-over", month-to-month tenant. The SuperBay Lease has received approval by the Airport Commission; and the SuperBay Lease is subject to approval by the San Francisco Board of Supervisors which is expected to occur no later than September 30, 2013.

5. **Claims.** Upon the Effective Date, the proofs of claim numbered 7939 and 13047, filed by the City against American on July 12, 2012 and August 7, 2012, respectively, shall be deemed withdrawn to reflect the terms of this Stipulation.

6. **Adequate Assurance.** The requirement for adequate assurance of future performance under the American Agreements under Section 365(b)(1) of the Bankruptcy Code ("**Adequate Assurance**") shall be satisfied by the Debtors' continued promise to pay rent and other charges and perform all obligations under the American Agreements and this Stipulation.

7. **Deposit.** The City acknowledges that it currently holds a surety bond in the amount of five million eighty six thousand four hundred forty nine dollars (\$5,086,449) (the "**Original Surety Bond**") that serves as security under the American Agreements. American shall replace its current surety bond with the City with a surety bond to serve as the security deposit (the "**Deposit**") under the American Agreements which surety bond shall be in an amount no less than three million eight hundred and sixty-one thousand three hundred and eighty-seven dollars, (\$3,861,387.00) as required by the Lease and Use Agreement No. L10-0078. The Original Surety Bond shall be immediately returned to American upon the City's receipt of the Deposit, and in any event the Original Surety Bond will be deemed terminated upon the City's receipt of the Deposit.

8. **Effect on American Agreements.** The American Agreements, except as noted below, shall be deemed amended to reflect the terms herein, and as used herein the term the "American Agreements" shall mean the American Agreements as amended hereby. In the event of any inconsistency between an existing term of any of the American Agreements and a term of this Stipulation, the term of this Stipulation shall prevail. Except as provided herein, the American Agreements and all terms and conditions thereof are in full force and effect and no

party hereto is released from any of the continuing obligations thereunder as modified herein, including indemnification obligations and any agreements related thereto for any losses associated with any action or inaction occurring prior to the Effective Date. Any default by American under this Stipulation shall be deemed an American default under the American Agreements.

9. Environmental Obligations.

a. As used in this Stipulation, "**Environmental Obligations**" shall mean American's obligations to investigate, respond to, remediate, or otherwise address environmental contamination at the Airport.

b. Settlement and Release Agreement. American shall assume the Settlement and Release Agreement (one of the Agreements in Exhibit A), and pursuant thereto shall pay the City Seven Hundred Seventy Eight Dollars and Seventy Eight Cents (\$778.78), which amount is included in the Cure Amount. The Settlement and Release Agreement is attached hereto as **Exhibit C**, entered into by American and the City in the case captioned *City and County of San Francisco v. ARCO et al.*, Case No. C-97-2965 MMC (N.D. Cal.) (the "**Action**").

c. American shall continue to comply with Regional Water Quality Control Board ("**RWQCB**") requirements for addressing contamination at San Francisco International Airport, including the operation of any existing remediation systems required by the RWQCB.

d. Outside Scope. The City and American agree that the following areas are outside the scope of this Stipulation regarding American's Environmental Obligations and all claims which were raised or could have been raised by the City in the Action. As to these areas, the parties will preserve and retain all of their respective rights.

- i. San Francisco Bay
- ii. West Side Basin
- iii. San Mateo Basin.

10. **The Option.** Subject to and conditioned upon Bankruptcy Court approval of this Stipulation, American and US Airways shall have the option to co-locate in Terminal 2 and to eliminate the Exclusive Use and Joint Use Space leased by US Airways in Terminal 1 and Boarding Area B under the US Airways Lease Agreement (the "**Option**"). Unless exercised, the Option granted to American and/or US Airways herein shall expire eighteen (18) months from the date of this Stipulation. In order for American and/or US Airways to exercise the Option, American and/or US Airways shall provide written notice to the Airport of their intent to exercise the Option, which notice shall state: (i) the requested date for American and US Airways co-location; and (ii) the requested amount and category of space to be eliminated from the US Airways Lease Agreement. Such notice must be provided to the Commission at least eight (8) months before the date on which the identified space is to be eliminated from the US Airways Lease Agreement, while the parties recognize gates will be assigned in accordance with Section 3 of the American and US Airways Lease Agreements. If the Option is exercised, US Airways shall comply with the requirements under the US Airways Lease Agreement as to any vacated space.



11. Miscellaneous.

a. Costs. Each party shall bear such party's own costs and attorney's fees.

b. Amendments, Waiver. This Stipulation, together with the Exhibits attached hereto and delivered in connection herewith, constitutes the entire agreement between the parties and supersedes all prior agreements, representations, warranties and understandings of the parties. No supplement, modification or amendment of this Stipulation shall be binding unless executed in writing by all parties affected thereby. No waiver of any of the provisions of this Stipulation shall be deemed or constitute a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by the party making the waiver.

c. Binding on Heirs and Assigns. This Stipulation shall be binding upon, and shall inure to the benefit of, the parties and their legal representatives, successors and assigns, whether by operation of law or otherwise, including any successor including any subsequent bankruptcy trustee.

d. Further Acts. Each party shall execute any and all documents and to do and perform any and all reasonable acts and things as are necessary and proper to effectuate the terms and provisions of this Stipulation. Without limiting the generality of the foregoing, (a) immediately following its execution of this Stipulation, American shall take appropriate steps to assume the American Agreements and seek the Approval Order, and (b) immediately following its receipt of this Stipulation executed by American, the City shall take appropriate steps to seek approval of the Airport Commission and the Board of Supervisors.

e. No Representations or Warranties. Except as expressly set forth in this Stipulation, neither of the parties hereto makes any representation or warranty, written or oral, express or implied.

f. Specific Performance. Except as may otherwise be provided in the Approval Order, nothing herein shall prevent a performing party from bringing an action against the non-performing party in any forum of competent jurisdiction for specific performance of this Stipulation, it being acknowledged by the parties hereto that such performing party will not have an adequate remedy at law for the other party's wrongful failure to perform as provided herein.

g. Governing Law. This Stipulation shall be governed by, construed in and enforced in accordance with the laws of the State of California including the laws regarding choice of law.

h. Counterparts. This Stipulation may be executed in counterparts and all counterparts shall be considered part of one Stipulation binding on all parties hereto.

i. Interpretation. Each party has been provided the opportunity to revise this Stipulation and accordingly, the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Stipulation. Instead, the language of all parts of this Stipulation shall be construed as a whole, and according to its fair meaning, and not strictly for or against either party.

j. Authority. The signatories to this Stipulation represent and warrant that, subject to the grant of all requisite approvals and authorizations specified in this Stipulation, each has the right and authority to execute this Stipulation in their individual or representative capacity, as applicable.

k. Facsimiles. This Stipulation may be executed by facsimile signatures, provided that original signatures are delivered by the Effective Date.

l. No Third-Party Beneficiaries. There are no third-party beneficiaries to this Stipulation.

m. SUBMISSION TO JURISDICTION. EACH PARTY HERETO HEREBY SUBMITS TO THE EXCLUSIVE JURISDICTION OF THE UNITED STATES BANKRUPTCY COURT FOR THE SOUTHERN DISTRICT OF NEW YORK FOR PURPOSES OF ALL LEGAL PROCEEDINGS ARISING OUT OF OR RELATING TO THIS STIPULATION OR THE TRANSACTIONS CONTEMPLATED HEREBY. EACH PARTY HERETO IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY OBJECTION WHICH IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF THE VENUE OF ANY SUCH PROCEEDING BROUGHT IN SUCH A COURT AND ANY CLAIM THAT ANY SUCH PROCEEDING BROUGHT IN SUCH A COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.

[signature page follows]

IN WITNESS WHEREOF, the parties hereto have entered into this Stipulation as of the Effective Date.

**CITY:**

CITY AND COUNTY OF SAN FRANCISCO,  
A MUNICIPAL CORPORATION,  
ACTING BY AND THROUGH ITS AIRPORT  
COMMISSION

By: [Signature]  
Name: John L. Martin  
Title: Airport Director

Authorized by Airport Commission  
Resolution No. 13-0187  
Adopted: Aug. 12, 2013  
Attest: [Signature]  
Jean Caramatti  
Secretary, Airport Commission

Approved as to form:

Dennis J. Herrera  
City Attorney

By: [Signature]  
Deputy City Attorney

**AMERICAN:**

**AMERICAN AIRLINES, INC.**

By: [Signature]  
Name: Kevin Cox  
Title: Vice President, Corporate Real Estate

**US AIRWAYS:**

**US AIRWAYS, INC.**

By: [Signature]  
Name: Michael Minerva  
Title: Vice President, Corporate Real Estate

*List of Exhibits*

- A List of Agreements
- B Calculation of Cure Amount
- C Settlement and Release Agreement

All such exhibits are incorporated into this Stipulation and made a part hereof.

Exhibit A  
LIST OF AMERICAN AGREEMENTS

AMERICAN AIRLINES, INC.<sup>1</sup>

Agreement (including all amendments to each agreement)	Description	Effective Date	Expiration Date	Area (s.f. or ac.)
Lease L10-0078	Airport Use and Lease Agreement	7/1/11		Exclusive: 47,509 s.f. Joint: 78,648 s.f.
Settlement Agreement (CCSF v. ARCO (N.D. Cal. No. C-97-2965 MMC)	Settlement and Release Agreement	Approximately 10/14/2004	n/a	n/a
Permit 3549	Airport Trash Compactor Use Agreement	8/01/01	30 days	n/a
Permit 3575	Triturator Use Agreement	7/01/01	30 days	n/a
AIR 65056	ITT Services - Admiral's Club	4/04/11	30 days	
AIR 65062	ITT Services - T2	2/01/05	30 days	
AIR T0141	ITT Services - Credit Union	01/01/08	30 days	
SAO-Z0160	Security Access Agreement	2/01/05		
	Interim Relocation Memorandum of Understanding	3/15/10		

<sup>1</sup> The Parties have entered into the new postpetition SuperBay Hangar Lease, (L13-0071) pending final City approval, that will replace the previous SuperBay Lease in which American was a "hold-over" month-to-month tenant.

**Exhibit B**  
**CURE AMOUNT**

Cure Amount due from American Airlines, Inc.	\$ (1,033,477.49)
Outstanding amount due from City for interim relocation to be applied as rent credit.	<u>\$ 3,755,594.22</u>
Net amount, to be applied as rent credit:	\$ 2,722,116.73

**Exhibit C**  
**SETTLEMENT AND RELEASE AGREEMENT**  
**(see attached pages)**

## SETTLEMENT AND RELEASE AGREEMENT

This Settlement Agreement ("Settlement Agreement") is made and entered into as of \_\_\_\_\_, 2004, by and between the City and County of San Francisco through its Airport Commission (the "City") and American Airlines ("Tenant") (each referred to as a "Party" or collectively as the "Parties").

### I. RECITALS

A. WHEREAS, the City and County of San Francisco is the owner of San Francisco International Airport ("Airport") located in San Mateo County, California.

B. WHEREAS, Tenant is and has been in the business of airline operations at the Airport.

C. WHEREAS, on June 21, 1995, the California Regional Water Quality Control Board, San Francisco Bay Region (the "Regional Board"), issued to the City and others Order No. 95-136 as amended by Order No. 99-045 adopted June 16, 1999 (the "Order") requiring that various study and remediation measures be taken.

D. WHEREAS, the Order establishes various soil and groundwater cleanup standards ("Cleanup Standards").

E. WHEREAS, the City contends that tenants including Tenant are required by lease, permit, regulation and otherwise to clean up all contamination.

F. WHEREAS, despite that contention, in a Notice to Tenants dated October 26, 1994, the Director of Airports advised that acceptable residual contamination could be left in place if an appropriate justification could be made by tenants.

G. WHEREAS, the Cleanup Standards assume, among other things, that Bay Mud underlying the Airport is continuous across the Airport and will act as a barrier limiting vertical migration of groundwater pollution into the drinking water known as the Westside Basin.

I SETTLEMENT DISCUSSIONS SUBJECT TO  
CONFIDENTIALITY AGREEMENT  
MAY NOT BE DISCLOSED



H. WHEREAS, the Order requires the respondents to institute a long-term groundwater monitoring program and residual risk management plans in order to assure protection of the Westside Basin among other things.

I. WHEREAS, the City has now determined that residual contamination may be left in place consistent with the Order if the tenants, including Tenant, comply with all provisions of the Order, including any applicable requirement for a residual risk management plan, and if applicable execute an appropriate agreement with the City to protect it against long-term liability owing to contamination caused by the tenants.

J. WHEREAS, the City embarked on a substantial program of new construction pursuant to its duly adopted Master Plan.

K. WHEREAS, Master Plan construction activities have required and will require soil excavation, groundwater dewatering and the installation of piles, all of which may encounter and/or impact contamination.

L. WHEREAS, current and future Airport operations, maintenance and construction activities may be conducted in areas of contamination allegedly caused by tenants, including Tenant.

M. WHEREAS, the City alleges, and Tenant denies, that, pursuant to leases, permits, regulations and law, Tenant is fully responsible for reimbursing the City for costs and damages for 1) complying with the Order with respect to soil and groundwater contamination that has been caused or necessitated by Tenant; 2) complying with any other requirements that the Board or any other government agency having jurisdiction may impose in the future; and 3) reimbursing the City for costs and damages that are caused or necessitated by the presence of contamination.

N. WHEREAS, the City sought recovery of its costs from various tenants to respond to the environmental contamination at the Airport by filing the civil action captioned City and County of San Francisco v. Atlantic Richfield Co., U.S.D.C., N.D. Cal., Case No. C97-2965 in 1997 (the "Action").

2 SETTLEMENT DISCUSSIONS SUBJECT TO  
CONFIDENTIALITY AGREEMENT  
MAY NOT BE DISCLOSED

**O.** WHEREAS, the first phase of this litigation ("Phase I") concerned cleanup costs incurred by the City through June 1998 associated with 29 Airport tenants, and concluded with settlements of Phase I costs between the City and 29 tenants, and the entry of Court approval for the good faith of these settlements and contribution protection for the settling tenants.

**P.** WHEREAS, the present phase of this litigation ("Phase II") concerns cleanup costs incurred by the City after June 1998 through October 1, 2003, associated with the same Airport tenants.

**Q.** WHEREAS, the City has incurred and expects to incur further cleanup costs from October 1, 2003 forward.

**R.** WHEREAS, at the end of Phase I in 2000, the Court took the case off its active civil docket, effectively staying litigation to allow the parties to resolve the City's remaining claims and setting June 1, 2003 as the date to revive the Action if the Court's further participation was necessary, and the Court extended the stay until June 1, 2004, upon a stipulation and motion by the parties, in order to continue settlement negotiations of Phase II Costs and Future Costs.

**S.** WHEREAS, over the past 12 months, the City has completed an extensive analysis of its costs and engaged in settlement discussions with all tenants whose activities have been connected with Phase II Costs and Future Costs, and has reached settlement with certain tenants.

NOW THEREFORE, in consideration of the foregoing and mutual promises and representations set forth below, and of other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City and Tenant agree as follows:

## **II. DEFINITIONS**

"EXISTING SOIL CONTAMINATION" means any pollution or contamination including but not limited to that contamination caused by or related to soot, acids, alkalis, toxic chemicals, liquids, waste materials or any form of toxic, or

3 SETTLEMENT DISCUSSIONS SUBJECT TO  
CONFIDENTIALITY AGREEMENT  
MAY NOT BE DISCLOSED

hazardous substance or material including without limitation, any "hazardous substances" as that term is defined in 42 U.S.C. § 9601, or any petroleum substances, that exists in, or was released onto, the soil at the Airport at the time that the Action is terminated, or January 1, 2005, whichever is earlier.

**"EXISTING GROUNDWATER CONTAMINATION"** means any pollution or contamination including but not limited to that contamination caused by or related to soot, acids, alkalis, toxic chemicals, liquids, waste materials or any form of toxic, or hazardous substance or material including without limitation, any "hazardous substances" as that term is defined in 42 U.S.C. § 9601, or any petroleum substances, that exists in the groundwater at or in the vicinity of the Airport and that resulted from contamination at the Airport at the time that the Action is terminated, or January 1, 2005, whichever is earlier.

**"EXISTING CONTAMINATION"** means both EXISTING SOIL CONTAMINATION and EXISTING GROUNDWATER CONTAMINATION.

**"SOIL CLAIMS"** means any and all demands, suits, actions, debts, accounts, covenants, damages, requests for relief or claims of every kind, nature and description whatsoever, either in law or in equity, arising out of or in connection with (i) alleged environmental pollution or contamination of the soil at the Airport; or (ii) the release, discharge, disposal, escape, seepage, storage, handling, or processing of alleged hazardous, contaminating, or polluting substances (including petroleum substances) into the soil at the Airport, in either case caused by EXISTING SOIL CONTAMINATION.

**"GROUNDWATER MONITORING CLAIMS"** means any and all demands, suits, actions, debts, accounts, covenants, damages, requests for relief or claims of every kind, nature and description whatsoever, either in law or in equity, arising out of or in connection with the investigation or monitoring of alleged environmental pollution or contamination of groundwater at the Airport caused by EXISTING CONTAMINATION.

**"GROUNDWATER REMEDIATION CLAIMS"** means any and all demands, suits, actions, debts, accounts, covenants, damages, requests for relief or claims of every

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kind, nature and description whatsoever, either in law or in equity, arising out of or in connection with the remediation or control of alleged environmental pollution or contamination of groundwater at the Airport caused by EXISTING CONTAMINATION.

SOIL CLAIMS and GROUNDWATER MONITORING CLAIMS and GROUNDWATER REMEDIATION CLAIMS include, without limitation:

- a. any claim of actual or threatened personal injury, property damage or natural resource damage, including without limitation any claim of injury, destruction, diminished value, loss of use, or economic loss with respect to such property or natural resource;
- b. any claim seeking to compel, through injunctive or equitable relief, or through the enforcement of federal, state, or local statutes, the testing, investigation, prevention, or remediation of any actual or threatened environmental contamination; or any claim for reimbursement of the costs of any such testing, investigation, prevention or remediation incurred by a governmental agency, individual or other entity;
- c. any claim for nuisance, trespass, interference with quiet enjoyment of property, bad faith, sanctions, punitive or exemplary damages, statutory fines, or penalties;
- d. any claim for costs or expenses incurred in order to comply with any environment-related statute, regulations, ordinance, or government request and/or directive; and
- e. any claim for breach of contract based on leases, permits, use agreements and other contractual arrangements

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between the City and Tenant, other than this Settlement Agreement.

**“PHASE I PAST COSTS”** means any and all costs incurred by or on behalf of the City (i) arising from known SOIL CLAIMS, GROUNDWATER MONITORING CLAIMS or GROUNDWATER REMEDIATION CLAIMS settled and approved by the Court during Phase I of this Action.

**“PHASE II PAST COSTS”** means any and all costs incurred by or on behalf of the City arising from known SOIL CLAIMS, GROUNDWATER MONITORING CLAIMS or GROUNDWATER REMEDIATION CLAIMS and identified in the City’s cost database referenced in the November 14, 2003 letter to Tenant and attached herein as Exhibit A.

**“FUTURE COSTS”** means any and all costs incurred by or on behalf of the City arising from SOIL CLAIMS, GROUNDWATER MONITORING CLAIMS or GROUNDWATER REMEDIATION CLAIMS and not identified as either PHASE I PAST COSTS or PHASE II PAST COSTS, including (1) costs of compliance with law, (2) incremental costs of operation, maintenance and construction, (3) review and oversight of remedial activities, and (4) liability for THIRD-PARTY CLAIMS associated with EXISTING CONTAMINATION, except where such claims are caused solely by the willful, intentional, or grossly negligent conduct of the City or its contractors. FUTURE COSTS include costs as defined above incurred at all areas of the Airport except for (a) San Francisco Bay, (b) West Side Basin, and (c) San Mateo Basin as provided in Paragraph VI.C below.

**“UNITED AIRLINES MAINTENANCE OPERATIONS CENTER”** or **“MOC”** means the area identified in Exhibit B.

**“PLOT 9B”** means the area identified in Exhibit C.

**“THIRD PARTY CLAIM”** shall mean a claim, action, or proceeding made or brought by a person or entity not a Party or affiliate of a Party to this Settlement

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Agreement resulting from EXISTING CONTAMINATION. If the City enters into a similar agreement in the future with another party who agrees to pay a percentage of FUTURE COSTS, and agrees to exclude, in whole or in part, a category of third party claims from the definition of FUTURE COSTS in that agreement, such definition shall apply to this Settlement Agreement.

### **III. AGREEMENT OF TENANT IN COMPROMISE OF DISPUTED CLAIMS**

**A.** *Tenant's Payment for PHASE II PAST COSTS.* Tenant agrees to pay the City the sum total of \$584,742.83 in the form of a check payable to the City and County of San Francisco (the "Settlement Payment"), within thirty (30) calendar days of full execution of the Settlement Agreement in full satisfaction of all PHASE II PAST COSTS.

**B.** *Tenant's Payment for FUTURE COSTS.*

1. Tenant accepts full responsibility for all environmental remediation of contamination at the area known as Plot 9B and will fully reimburse the City for FUTURE COSTS incurred by the City due to EXISTING CONTAMINATION at Plot 9B.

2. For all areas of the Airport other than Plot 9B or United Airlines' Maintenance Operations Center (which area is entirely allocated to another party), Tenant agrees to pay the City 6.74% of FUTURE COSTS.

3. The Tenant and the City shall abide by the administrative process set forth in Exhibit E for submission and payment of invoices for FUTURE COSTS. At any time after the City has incurred \$98 million in FUTURE COSTS, Tenant may terminate this Section III.B of the Settlement Agreement. In the event of such termination, the releases pursuant to Sections IV.A and V below and the contribution protection described in Section IV.C shall apply only to costs incurred by the City prior to termination, and the Parties may then raise any and all claims and defenses related to FUTURE COSTS incurred by the City in excess of those FUTURE COSTS paid by the Tenant under this Section III.B. Tenant shall provide written notice of termination to the

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City at least 30 days before the date the termination is to be effective, using the notice provisions of Section XI below.

#### **IV. RELEASE OF TENANT BY THE CITY**

**A.** In consideration of Tenant's promises in this Settlement Agreement and conditioned upon receipt of the Settlement Payments from Tenant pursuant to Paragraph III above, the City, absolutely and unconditionally releases, acquits and forever discharges Tenant and its present and former employees, officers and directors, agents, affiliates, parent companies and subsidiaries (such affiliates, parent companies, and subsidiaries being described in Exhibit D hereto) from any and all manner of PHASE II PAST COSTS, and FUTURE COSTS.

**B.** Nothing in this release shall limit the City's right to include any cost properly included in the base for rates and charges, including, but not limited to, any cost associated with investigation or remediation or otherwise responding to the contamination. In addition, nothing in the Settlement Agreement shall affect or otherwise limit the Parties' obligations under the Lease and Use Agreement and the related Settlement Agreement or any lease, permit, or other relevant agreement between the Parties.

**C.** The City and Tenant expressly agree that this Settlement Agreement is in good faith within the meaning of California Code of Civil Procedure § 877, and that, to the best of their knowledge and belief, the other has participated in the negotiations giving rise to this Settlement Agreement in good faith. The City and Tenant shall cooperate in bringing a motion pursuant to California Code of Civil Procedure § 877.6 seeking a determination as to the matters addressed in this Settlement Agreement that the settlement has been entered in good faith and barring claims against Tenant by joint tortfeasors and co-obligators for equitable comparative contribution, or partial or comparative indemnity, based on comparative negligence or comparative fault. If the Court does not make such a determination by January 1, 2005, either the City or Tenant may void this Settlement Agreement. In that event, the City will refund the Settlement

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Payment required by paragraph III. The Parties agree that the motion shall be made together with motions seeking contribution bars in favor of other settling tenants.

#### **V. RELEASE OF THE CITY BY TENANT**

**A.** Tenant, on its own behalf and behalf of its agents, including its employees, officers, directors, successors, legal representatives, heirs and assigns, absolutely and unconditionally releases, acquits and forever discharges the City and any and all of its predecessors, successors, assigns, and/or each of their present, former and future officials, employees, officials, directors, officers, agents, contractors, servants, employees, and heirs and directors, from any and all manner of claims which Tenant now has, will have or ever has had against the City, jointly or severally, arising out of or in connection with EXISTING CONTAMINATION before October 1, 2003 and arising from SOIL CLAIMS, GROUNDWATER MONITORING CLAIMS, or GROUNDWATER REMEDIATION CLAIMS.

#### **VI. OTHER ACKNOWLEDGEMENTS**

**A.** This Settlement Agreement does not constitute and is not to be interpreted as an admission by any Party of liability or of any matter of fact or law, or as a declaration against interest, and this Settlement Agreement shall not be introduced as evidence in any proceeding except a proceeding under California Code of Civil Procedure § 877.6 or a proceeding to enforce the terms hereof. The provisions of this paragraph shall survive the termination of this Settlement Agreement.

**B.** The Parties shall cooperate fully and execute any and all supplementary documents and take all additional actions that may be necessary or appropriate to give full force and effect to the terms of this Settlement Agreement.

**C.** Tenant and the City expressly agree that neither this Settlement Agreement nor any judgment or dismissal resulting from it shall operate as a bar under res judicata, collateral estoppel, or statute of limitations as to any claims that either Party may have against the other Party other than the claims expressly released by this Settlement Agreement. The Parties agree that the following areas are outside the scope

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of this Settlement Agreement and all claims which were raised or could have been raised by the City in the Action. As to these areas, the parties will preserve and retain all of their respective rights: (a) San Francisco Bay, (b) West Side Basin, and (c) San Mateo Basin.

**D.** The Parties expressly agree to comply with all requirements of law, including but not limited to orders of the Regional Board. The Parties retain all of their pre-existing rights to challenge in good faith laws, regulations, or orders of the Regional Board or other governmental entities. To the extent not barred, including but not limited to by a release or contribution protection, the City and Tenant expressly reserve their rights and defenses with respect to any contribution or other claim each may have against a third party, including but not limited to challenging the good faith determination of any settlement with a party for PHASE II PAST COSTS or FUTURE COSTS.

**E.** The City shall make a good faith effort to recover PHASE II COSTS and FUTURE COSTS from the potentially responsible parties. The Tenant shall cooperate with the City's efforts to obtain cost recovery from other potentially responsible parties.

## **VII. REPRESENTATIONS AND COVENANTS**

**A.** Without admission of any matter of fact or law, Tenant represents that, to the best of its knowledge and belief, Tenant is unaware of any releases of oil or hazardous material, including but not limited to spills of jet fuel, by Tenant or its predecessors, or affiliates, or its predecessor's affiliates at the Airport beyond the release incidents identified by the City in the course of the settlement negotiations between the City and Tenant which preceded execution of this Settlement Agreement and the previous Phase I litigation and related settlement agreements.

**B.** The City covenants that with respect to every party that enters into a settlement with the City for PHASE II PAST COSTS or FUTURE COSTS and obtains the court's approval of that settlement pursuant to California Code of Civil Procedure § 877 (a "Settling Party"), the City will attempt to obtain a covenant from each Settling

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Party that it will not assert any contribution claims for PHASE II PAST COSTS or FUTURE COSTS against Tenant.

**C.** Tenant covenants not to assert contribution claims for matters settled by this Settlement Agreement against any Settling Party that has covenanted not to assert such contribution claims against Settling Parties and whose settlement has been determined by the Court to have been entered in good faith under California Code of Civil Procedure § 877.6.

**D.** The City and Tenant each separately represent that:

1. it has been represented by counsel of its choice throughout the negotiation of this Settlement Agreement, that it has discussed the terms and conditions of this Settlement Agreement with counsel, and that it understands the terms and conditions of this Settlement Agreement;

2. as of the date hereof, all representations and covenants made in the Settlement Agreement are true and accurate;

3. no promise or inducement has been offered for this Settlement Agreement other than as expressly set forth herein;

4. there are no other agreements or representations, either oral or written, express or implied, that are not embodied in this Settlement Agreement, and this Settlement Agreement represents a complete integration of all the prior and contemporaneous agreements and understandings of the City and Tenant; and it has the corporate authority to execute this Settlement Agreement.

#### **VIII. GOVERNING LAW**

This Settlement Agreement is executed under the laws of California and shall be governed by the laws of California.

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**IX. AMENDMENTS TO SETTLEMENT AGREEMENT**

This Settlement Agreement is the final integrated agreement between the Parties, and may not be amended or modified except in a writing executed by both the City and Tenant.

**X. OTHER PROVISIONS**

A. This Settlement Agreement shall be binding upon and inure to the benefit of the parties hereto, and their respective successors and assigns. The City and Tenant intend that other parties that enter into undertakings, as part of a settlement with the City, substantially the same as those found in paragraph VII.C. of this Settlement Agreement, shall be third-party beneficiaries of paragraph VII.C. of this Settlement Agreement.

B. This Settlement Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which taken together shall be deemed to be one and the same instrument.

C. For purposes of interpretation, this Settlement Agreement shall not be deemed to have been authored by either Tenant or the City, but rather shall be deemed to have been authored by both Tenant and the City.

D. The Court shall retain jurisdiction over the implementation and enforcement of this Settlement Agreement.

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**XI. NOTICE**

All notices or other communications which any Party desires or is required to give shall be given in writing and shall be deemed to have been given if hand-delivered, sent by telecopier or mailed by depositing in the United States mail, prepaid to the Party at the address noted below or such other address as a Party may designate in writing from time to time.

To Tenant:

Joan Krajewski  
Senior Attorney  
American Airlines  
MD 5675  
P.O. Box 619616  
Dallas/Fort Worth Airport, Texas 75261-9616

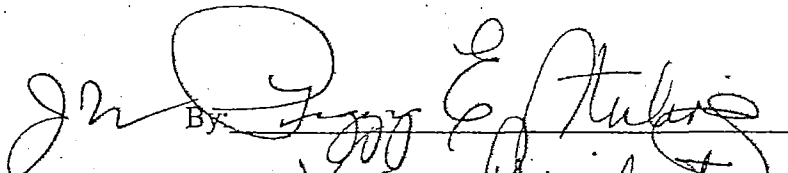
To the City:

Melba Yee, Esq.  
Deputy City Attorney  
City and County of San Francisco  
San Francisco International Airport  
International Terminal, 5th Floor  
P.O. Box 8097  
San Francisco, CA 94128

Peter Hsiao  
Nancy Hayes  
Morrison & Foerster, LLP  
425 Market Street, Suite 3500  
San Francisco, CA 94104

IN WITNESS WHEREOF, the Parties hereto have executed this Settlement Agreement as of the date first written above.

American Airlines

By:   
Title: Vice President

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APPROVED AS TO FORM:

DENNIS J. HERRERA  
City Attorney

By: *Melba J. Lee*  
Deputy City Attorney

CITY AND COUNTY OF SAN FRANCISCO

By: *John L. Martin*  
John L. Martin

Its: Airport Director

Date: 10.14.04

ATTEST:

*Jean Caramatti*  
Jean Caramatti  
Secretary Airport Commission  
Resolution No: 04-0171  
Adopted: Aug. 17, 2004

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CONFIDENTIALITY AGREEMENT  
MAY NOT BE DISCLOSED

**San Francisco International Airport Environmental Recovery Phase II (2nd Iteration)  
Cost Centers and Responsible Party Identification - November 14, 2003**

Cost Center ID / Name	FOM Env. Service Costs (reported through 10/01/03)	On-Call / MP Env. Costs (reported through 10/01/03)	Total Costs	Responsible Parties
1 Aircraft Services International Group, Inc.	\$9,725.25	\$0.00	\$8,725.25	Aircraft Service International Group, Inc.
119 Airport-Wide Cost Recovery Site Technical & PRP Research	\$938,025.04	\$0.00	\$938,025.04	Airborne Freight Corporation*, Aircraft Service International Group, Inc., Airport Group International, American Airlines Inc., ARCO Products Inc., Avis Rent-A-Car System Inc., Budget Rent A Car Systems Inc., Chevron U.S.A. Inc. Chevron Products Company, Continental Airlines Inc., Delta Air Lines Inc., Dollar Rent-A-Car Systems, Inc., Federal Aviation Administration, Federal Express Corporation, General Motors Corporation (National Car Rental), Japan Airlines, Kinder Morgan Energy Partners LP (Santa Fe Pacific Pipeline Partners)*, Northwest Airlines Inc., PS Trading, Inc., Qantas Airways Ltd.*, SFO Fuel Company LLC, Shell Oil Products Company, Signature Flight Support, Inc., The Hertz Corporation, Union Oil Company of California, United Air Lines Inc., US Airways Inc., US Postal Service
112 Airport-Wide Detention Basins & Canals	\$30,901.78	\$295,362.36	\$326,264.14	Airborne Freight Corporation*, Aircraft Service International Group, Inc., Airport Group International, American Airlines Inc., ARCO Products Inc., Avis Rent-A-Car System Inc., Budget Rent A Car Systems Inc., Chevron U.S.A. Inc. Chevron Products Company, Continental Airlines Inc., Delta Air Lines Inc., Dollar Rent-A-Car Systems, Inc., Federal Aviation Administration, Federal Express Corporation, General Motors Corporation (National Car Rental)*, Japan Airlines, Kinder Morgan Energy Partners LP (Santa Fe Pacific Pipeline Partners)*, Northwest Airlines Inc., PS Trading, Inc., Qantas Airways Ltd.*, SFO Fuel Company LLC, Shell Oil Products Company, Signature Flight Support, Inc., The Hertz Corporation*, Union Oil Company of California, United Air Lines Inc., US Airways Inc., US Postal Service
2 Airport-Wide Environmental Program Costs	\$2,543,565.95	\$52,014.76	\$2,595,580.71	Airborne Freight Corporation*, Aircraft Service International Group, Inc., Airport Group International, American Airlines Inc., ARCO Products Inc., Avis Rent-A-Car System Inc., Budget Rent A Car Systems Inc., Chevron U.S.A. Inc. Chevron Products Company, Continental Airlines Inc., Delta Air Lines Inc., Dollar Rent-A-Car Systems, Inc., Federal Aviation Administration, Federal Express Corporation, General Motors Corporation (National Car Rental), Japan Airlines, Kinder Morgan Energy Partners LP (Santa Fe Pacific Pipeline Partners)*, Northwest Airlines Inc., PS Trading, Inc., Qantas Airways Ltd.*, SFO Fuel Company LLC, Shell Oil Products Company, Signature Flight Support, Inc., The Hertz Corporation, Union Oil Company of California, United Air Lines Inc., US Airways Inc., US Postal Service
5 American Airlines Inc.	\$19,426.57	\$0.00	\$19,426.57	American Airlines Inc.

\*Phase I Settlement Agreement addressed Future Costs at this Cost Center.

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**San Francisco International Airport Environmental Recovery Phase II (2nd Iteration)  
Cost Centers and Responsible Party Identification - November 14, 2003**

Cost Center ID / Name	FOM Env. Service Costs (reported through 10/01/03)	On-Call / MP Env. Costs (reported through 10/01/03)	Total Costs	Responsible Parties
8 ARCO Products Inc.	\$5,681.72	\$0.00	\$5,681.72	ARCO Products Inc.
9 Avis Rent a Car Systems Inc. Plot 3 Interim Car Facility	\$4,603.00	\$0.00	\$4,603.00	Avis Rent-A-Car System Inc.
14 Boarding Area "B" Former Delta Terminal & Apron	\$997.54	\$0.00	\$997.54	Aircraft Service International Group, Inc., Airport Group International, Continental Airlines Inc., Delta Air Lines Inc., Union Oil Company of California
15 Boarding Area "B" TWA Terminal & Apron	\$16,126.91	\$8,293.00	\$24,419.91	Aircraft Service International Group, Inc., Airport Group International, Shell Oil Products Company
17 Boarding Area "D" Terminal & Apron	\$95,983.48	\$38,023.42	\$134,006.90	Aircraft Service International Group, Inc., Chevron U.S.A. Inc. Chevron Products Company, United Air Lines Inc.
20 Boarding Area "E" Terminal & Apron	\$2,397.05	\$0.00	\$2,397.05	American Airlines Inc., Chevron U.S.A. Inc. Chevron Products Company, Delta Air Lines Inc., United Air Lines Inc.
24 Budget Rent a Car Systems Inc. Plot 3 Interim Car Facility	\$1,594.90	\$0.00	\$1,594.90	Budget Rent A Car Systems Inc.
26 Chevron USA Inc.	\$12,068.39	\$93,596.58	\$105,664.97	Chevron U.S.A. Inc. Chevron Products Company
29 Contract 2953 - West Field Cargo Bldg 1 / Contract 3444 - Taxiway R Re-alignment	\$9,877.69	\$0.00	\$9,877.69	Airborne Freight Corporation*, American Airlines Inc., Chevron U.S.A. Inc. Chevron Products Company, Continental Airlines Inc., Delta Air Lines Inc., Northwest Airlines Inc., Qantas Airways Ltd., Shell Oil Products Company, Signature Flight Support, Inc., US Airways Inc.
32 Contract 3569 - Taxiway P - 84-inch Utility Tunnel	\$5,372.53	\$0.00	\$5,372.53	Airborne Freight Corporation*, Aircraft Service International Group, Inc., Airport Group International, American Airlines Inc., ARCO Products Inc., Avis Rent-A-Car System Inc., Budget Rent A Car Systems Inc., Chevron U.S.A. Inc. Chevron Products Company, Continental Airlines Inc., Delta Air Lines Inc., Dollar Rent-A-Car Systems, Inc., Federal Aviation Administration, Federal Express Corporation, General Motors Corporation (National Car Rental)*, Japan Airlines, Kinder Morgan Energy Partners LP (Santa Fe Pacific Pipeline Partners)*, Northwest Airlines Inc., PS Trading, Inc., Qantas Airways Ltd., SFO Fuel Company LLC, Shell Oil Products Company, Signature Flight Support, Inc., The Hertz Corporation*, Union Oil Company of California, United Air Lines Inc., US Airways Inc., US Postal Service

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\*Phase I Settlement Agreement addressed Future Costs at this Cost Center.

**San Francisco International Airport Environmental Recovery Phase II (2nd Iteration)  
Cost Centers and Responsible Party Identification - November 14, 2003**

Cost Center ID / Name	FOM Env. Service Costs (reported through 10/01/03)	On-Call / MP Env. Costs (reported through 10/01/03)	Total Costs	Responsible Parties
123 Contract 4228 - Utility Repairs & Upgrades	\$2,441.92	\$15,051.53	\$17,493.45	Shell Oil Products Company
122 Contract 4272 - Installation of 12-inch Water Line at Plot 3	\$888.00	\$14,435.11	\$15,323.11	Shell Oil Products Company
37 Contract 4346 - As Needed Emergency Utility Repair	\$2,152.30	\$0.00	\$2,152.30	Avis Rent-A-Car System Inc.*, Chevron U.S.A. Inc, Chevron Products Company, Shell Oil Products Company
39 Contract 5500E - New International Terminal	\$14,823.98	\$184,334.00	\$199,157.98	Avis Rent-A-Car System Inc.*, Chevron U.S.A. Inc, Chevron Products Company, Shell Oil Products Company, United Air Lines Inc.
125 Contract 5510.E - International Terminal B/A "A" General Building Construction	\$0.00	\$24,228.00	\$24,228.00	Chevron U.S.A. Inc, Chevron Products Company, Shell Oil Products Company, United Air Lines Inc.
41 Contract 5511A - International Boarding Area "A" Apron	\$95.36	\$40,411.24	\$40,506.60	Chevron U.S.A. Inc, Chevron Products Company, Shell Oil Products Company, United Air Lines Inc.
43 Contract 5530E / Contract 3479 - Taxiway A & B Re-Alignment	\$23,953.03	\$324,480.00	\$348,433.03	American Airlines Inc., Chevron U.S.A. Inc, Chevron Products Company, Delta Air Lines Inc., Qantas Airways Ltd.*
44 Contract 5531A - Taxiways H & M Re-Alignment	\$3,052.66	\$4,400.00	\$7,452.66	Shell Oil Products Company
134 Contract 5800C - Parking Garage Building Construction	\$0.00	\$23,103.00	\$23,103.00	General Motors Corporation (National Car Rental)*
53 Contract 5602A - Airport Employee Parking Garage	\$7,749.42	\$111,344.44	\$119,093.86	Airborne Freight Corporation*, American Airlines Inc., Chevron U.S.A. Inc, Chevron Products Company, Continental Airlines Inc., Delta Air Lines Inc., Northwest Airlines Inc., Qantas Airways Ltd.*, Shell Oil Products Company, Signature Flight Support, Inc., US Airways Inc.
10 Contract 5670A - Concourse H/ART Station/North International Parking Garage	\$2,888.10	\$5,937.03	\$8,825.13	Budget Rent A Car Systems Inc.*, Chevron U.S.A. Inc, Chevron Products Company, Kinder Morgan Energy Partners LP (Santa Fe Pacific Pipeline Partners)*, United Air Lines Inc.
55 Contract 5750B - North Field Cargo Foundation & Facilities	\$52,771.11	\$1,028,288.22	\$1,081,059.33	Airport Group International, ARCO Products Inc., Chevron U.S.A. Inc, Chevron Products Company, PS Trading, Inc., Shell Oil Products Company

\*Phase I Settlement Agreement addressed Future Costs at this Cost Center.

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**San Francisco International Airport Environmental Recovery Phase II (2nd Iteration)  
Cost Centers and Responsible Party Identification - November 14, 2003**

Cost Center ID / Name	FOM Env. Service Costs (reported through 10/01/03)	On-Call / MP Env. Costs (reported through 10/01/03)	Total Costs	Responsible Parties
56 Contract 5900D - Elevated Circulation Roads	\$8,516.07	\$0.00	\$8,516.07	Avis Rent-A-Car System Inc.*, Budget Rent A Car Systems Inc.*, Chevron U.S.A. Inc. Chevron Products Company, General Motors Corporation (National Car Rental)*, The Hertz Corporation*, United Air Lines Inc.
57 Contract 5903B - McDonnell Road Realignment (Near San Bruno Ave.)	\$95.36	\$7,064.00	\$7,159.36	ARCO Products Inc., PS Trading, Inc.
129 Contract 5903B - North McDonnell Rd - Road 21 Realignment	\$344.75	\$24,551.00	\$24,895.75	Delta Air Lines Inc.
60 Delta Air Lines, Inc.	\$6,946.47	\$0.00	\$6,946.47	Delta Air Lines Inc.
61 Dollar Rent A Car Systems	\$2,140.34	\$0.00	\$2,140.34	Dollar Rent-A-Car Systems, Inc.
63 Federal Aviation Administration	\$20,031.05	\$0.00	\$20,031.05	Federal Aviation Administration
68 Japan Airlines	\$14,626.29	\$107,728.00	\$122,354.29	Japan Airlines
73 National Rent A Car Systems Plot 3 Interim Car Rental Facility	\$3,025.68	\$3,402.83	\$6,428.51	General Motors Corporation (National Car Rental)
76 Northwest Airlines	\$1,136.00	\$0.00	\$1,136.00	Northwest Airlines Inc.
78 P.S. Trading, Inc.	\$33,132.42	\$3,606.00	\$36,738.42	PS Trading, Inc.
80 Plot 24 - Bulk Fuel Farm / Maintenance & Operation Facility	\$6,628.38	\$0.00	\$6,628.38	Chevron U.S.A. Inc. Chevron Products Company
81 Plot 3 - 54" Storm Drain Install & Fuel Line Removal	\$32,468.17	\$34,738.52	\$67,206.69	Shell Oil Products Company
67 Plot 3 - Former Interim Rental Car Facility	\$754.04	\$72,503.38	\$73,257.42	Avis Rent-A-Car System Inc., General Motors Corporation (National Car Rental), The Hertz Corporation
82 Plot 3 - Shell & TWA Pipeline/Hydrant Removal & Closures	\$31,441.32	\$10,281.74	\$41,723.06	Shell Oil Products Company

\*Phase I Settlement Agreement addressed Future Costs at this Cost Center.

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**San Francisco International Airport Environmental Recovery Phase II (2nd Iteration)  
Cost Centers and Responsible Party Identification - November 14, 2003**

Cost Center ID / Name	FOM Env. Service Costs (reported through 10/01/03)	On-Call / MP Env. Costs (reported through 10/01/03)	Total Costs	Responsible Parties
86 Plot 42 Area	\$3,645.40	\$0.00	\$3,645.40	Aircraft Service International Group, Inc., American Airlines Inc., Signature Flight Support, Inc., United Air Lines Inc.
64 Plot 50 - Former FedEx Cargo Bldg. 958	\$323,922.23	\$850,208.50	\$1,174,130.73	Airport Group International, Federal Express Corporation
88 Plot 50 - North Field Cargo Utilities, Apron & Taxiway Construction	\$24,217.94	\$2,014,659.26	\$2,038,877.20	Airport Group International, ARCO Products Inc., Chevron U.S.A. Inc. Chevron Products Company, Federal Express Corporation, PS Trading, Inc., Shell Oil Products Company
126 Plot 50 - Utility Construction North and East of Cargo Bldg. 944	\$1,984.52	\$62,581.00	\$64,565.52	ARCO Products Inc., Chevron U.S.A. Inc. Chevron Products Company, Federal Express Corporation, PS Trading, Inc., Shell Oil Products Company
135 Plot 9 - West Field Cargo Redevelopment Area	\$85,240.61	\$0.00	\$85,240.61	American Airlines Inc., Northwest Airlines Inc.
100 SFO Fuel Company LLC	\$20,809.87	\$0.00	\$20,809.87	SFO Fuel Company LLC
101 Shell Oil Company	\$44,785.78	\$6,493.00	\$51,278.78	Shell Oil Products Company
102 Signature Flight Support	\$993.61	\$0.00	\$993.61	Signature Flight Support, Inc.
66 The Hertz Corporation Plot 3 Interim Car Facility	\$6,180.09	\$0.00	\$6,180.09	The Hertz Corporation
108 Union Oil Company of California	\$12,200.11	\$102,467.27	\$114,667.38	Union Oil Company of California
109 United Air Lines Inc.	\$53,184.75	\$11,071.37	\$64,256.12	United Air Lines Inc.
111 US Postal Service	\$1,118.38	\$0.00	\$1,118.38	US Postal Service
<b>Subtotal "Trigger Costs"</b>	<b>\$4,546,733.31</b>	<b>\$5,574,658.56</b>	<b>\$10,121,391.87</b>	
114 ZV - Airport-Wide RWQCB Order Agency Oversight Fees (7/1/98 to 10/01/03)	\$150,506.03	\$0.00	\$150,506.03	Airborne Freight Corporation*, Aircraft Service International Group, Inc., Airport Group International, American Airlines Inc., ARCO Products Inc., Avis Rent-A-Car System Inc., Budget Rent A Car Systems Inc., Chevron U.S.A. Inc. Chevron Products Company, Continental Airlines Inc., Delta Air Lines Inc., Dollar Rent-A-Car Systems, Inc., Federal Aviation Administration, Federal Express Corporation, General Motors Corporation (National Car Rental), Japan Airlines, Kinder

\*Phase I Settlement Agreement addressed Future Costs at this Cost Center.

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**San Francisco International Airport Environmental Recovery Phase II (2nd Iteration)  
Cost Centers and Responsible Party Identification - November 14, 2003**

Cost Center ID / Name	FOM Env. Service Costs (reported through 10/01/03)	On-Call / MP Env. Costs (reported through 10/01/03)	Total Costs	Responsible Parties
115 ZX - Internal FOM Costs (7/1/98 to 10/01/03)	\$476,669.84	\$0.00	\$476,669.84	Morgan Energy Partners LP (Santa Fe Pacific Pipeline Partners)*, Northwest Airlines Inc., PS Trading, Inc., Qantas Airways Ltd.*, SFO Fuel Company LLC, Shell Oil Products Company, Signature Flight Support, Inc., The Hertz Corporation, Union Oil Company of California, United Air Lines Inc., US Airways Inc., US Postal Service
117 ZY - Attorney Fees & Litigation Support (7/1/98 to 10/01/03)	\$2,126,226.87	\$0.00	\$2,126,226.87	Albome Freight Corporation*, Aircraft Service International Group, Inc., Airport Group International, American Airlines Inc., ARCO Products Inc., Avis Rent-A-Car System Inc., Budget Rent A Car Systems Inc., Chevron U.S.A. Inc. Chevron Products Company, Continental Airlines Inc., Delta Air Lines Inc., Dollar Rent-A-Car Systems, Inc., Federal Aviation Administration, Federal Express Corporation, General Motors Corporation (National Car Rental), Japan Airlines, Kinder Morgan Energy Partners LP (Santa Fe Pacific Pipeline Partners)*, Northwest Airlines Inc., PS Trading, Inc., Qantas Airways Ltd.*, SFO Fuel Company LLC, Shell Oil Products Company, Signature Flight Support, Inc., The Hertz Corporation, Union Oil Company of California, United Air Lines Inc., US Airways Inc., US Postal Service

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\*Phase I Settlement Agreement addressed Future Costs at this Cost Center.

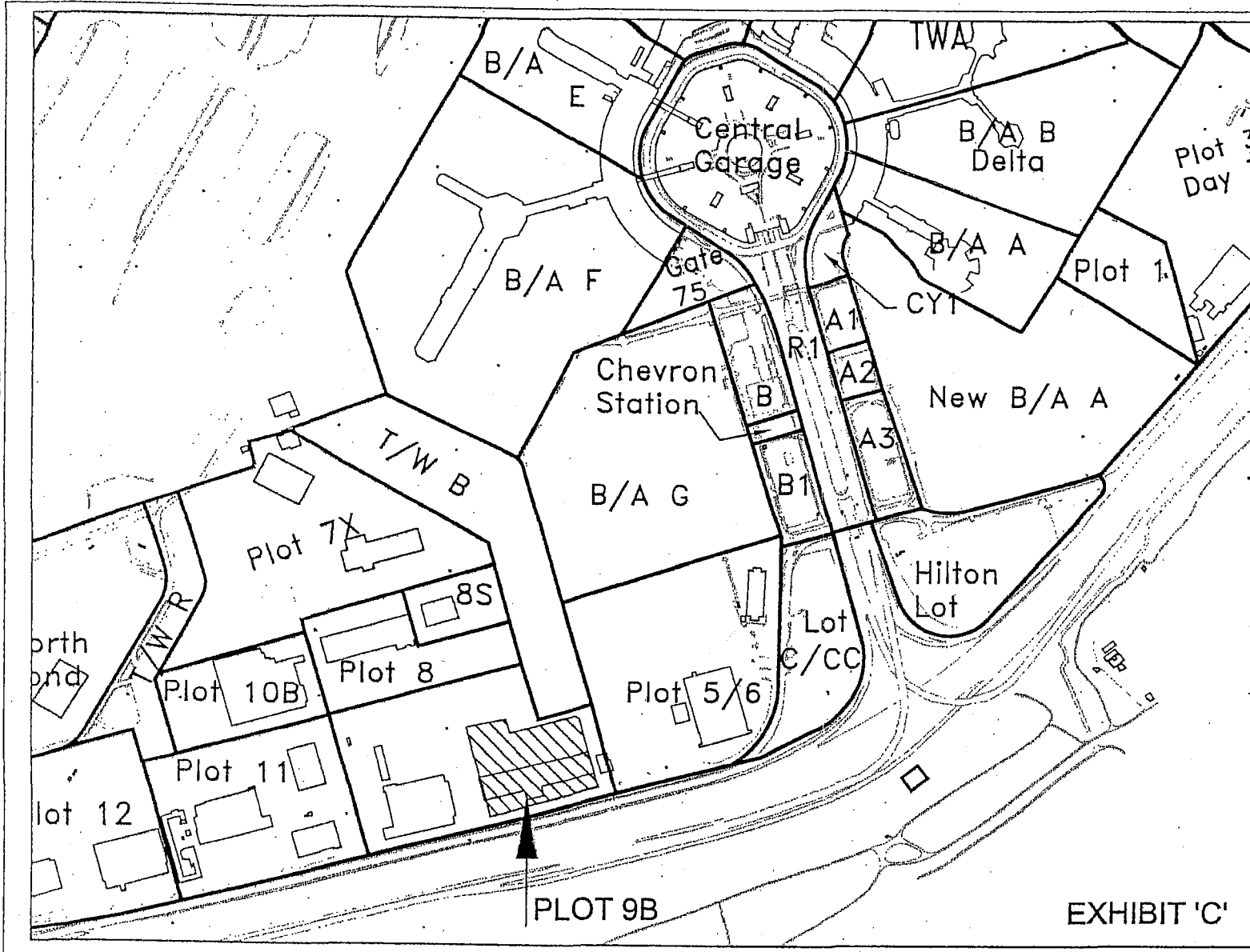
**San Francisco International Airport Environmental Recovery Phase II (2nd Iteration)  
- Cost Centers and Responsible Party Identification - November 14, 2003**

Cost Center ID / Name	FOM Env. Service Costs (reported through 10/01/03)	On-Call / MP Env. Costs (reported through 10/01/03)	Total Costs	Responsible Parties
118 ZZ - Total Prejudgment Interest (7/4/00 to 10/01/03)	\$1,833,107.85	\$0.00	\$1,833,107.85	Airborne Freight Corporation*, Aircraft Service International Group, Inc., Airport Group International, American Airlines Inc., ARCO Products Inc., Avis Rent-A-Car System Inc., Budget Rent A Car Systems Inc., Chevron U.S.A. Inc. Chevron Products Company, Continental Airlines Inc., Delta Air Lines Inc., Dollar Rent-A-Car Systems, Inc., Federal Aviation Administration, Federal Express Corporation, General Motors Corporation (National Car Rental), Japan Airlines; Kinder Morgan Energy Partners LP (Santa Fe Pacific Pipeline Partners)*, Northwest Airlines Inc., PS Trading, Inc., Qantas Airways Ltd.*, SFO Fuel Company LLC, Shell Oil Products Company, Signature Flight Support, Inc., The Hertz Corporation, Union Oil Company of California, United Air Lines Inc., US Airways Inc., US Postal Service
<b>Subtotal Non-Trigger Costs</b>	<b>\$4,586,510.59</b>	<b>\$0.00</b>	<b>\$4,586,510.59</b>	
<b>Total Costs</b>	<b>\$9,133,243.90</b>	<b>\$5,574,658.56</b>	<b>\$14,707,902.46</b>	

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\*Phase I Settlement Agreement addressed Future Costs at this Cost Center.





CITY AND COUNTY OF SAN FRANCISCO  
AIRPORT COMMISSION

C:\background\airmap01.dwg

NO.	DESCRIPTION	DATE

Noted that in the City and County of San Francisco, that all rights and interests in the land and any other property owned or controlled by the City and County of San Francisco are the property of the City and County of San Francisco, and that the City and County of San Francisco, its officers and employees, shall have the right to use and occupy any and all lands owned or controlled by the City and County of San Francisco for any purpose.

Nothing in this document shall be construed to limit the authority of the City and County of San Francisco to use and occupy any and all lands owned or controlled by the City and County of San Francisco for any purpose.

**FUTURE COST  
AREA MAP**

PLOT 9B

EXHIBIT 'C'

## EXHIBIT D

### American Airlines

Air Cargo, Inc.  
AirCal  
Airlines Terminal Corporation  
Alaskan Airways  
American Export Airline  
American Airlines, Inc.  
American Overseas Airlines, Inc.,  
American Eagle Airlines, Inc.  
American Export Airlines  
American Airways  
AMR Eagle, Inc.  
AMR Eagle Holding Corp.  
AMR Holding Company, Inc.  
AMR Regional Aircraft Maintenance Center, Inc.  
AMR Eagle-Charter, Inc.  
AMR Eagle, Inc.  
AMR  
AMR Corporation  
AVCO  
Aviation Corp.  
Bonanza Acquisitions, Inc.  
Business Express Airlines, Inc.  
Canadian Colonial Airways  
Century Airlines  
Colonial Airways Corp.  
Command Airline, Inc.  
Cuban Aviation Corporation  
Eagle Aviation Services, Inc.  
Embry-Riddle Co.  
Executive Air Charter, Inc.  
Executive Air, Inc.  
Flagship Airlines, Inc.  
Fokker Aircraft Corp.  
Interstate Airlines  
JB Aviation, Inc.  
Martz Airlines  
Metro  
Nashville Eagle, Inc.  
Nashville Eagle  
Reno Air, Inc.  
Robertson Aircraft Corp.

Simmons Airlines, Inc.  
Southern Air Transport  
Southern Transcontinental Airways, Inc.  
Thompson Aeronautical Corp.  
Trans Caribbean Airways  
TWA LLC  
Universal Aviation Corp.  
Universal Air Lines  
Western Air Express  
Wings West Aviation Services, Inc.  
Wings West Airlines, Inc.



**EXHIBIT E**

**ADMINISTRATIVE PROCESS FOR FUTURE COSTS INVOICES**

The Parties agree to the following administrative process for submission and payment of Invoices for FUTURE COSTS as provided in the Settlement Agreement to which this is incorporated. If the City enters into a similar agreement in the future with another party who agrees to pay a percentage of FUTURE COSTS, Tenant shall be entitled to the same administrative process governing the submission and payment of Invoices for FUTURE COSTS as applied to that party. All terms used herein shall have the same meaning as in the Settlement Agreement.

1. Timing of Invoices to Tenants. The City shall submit an Invoice ("Invoice") semi-annually to Tenant for *Tenant's Payment of Future Costs* as described in Section III.B of the Settlement Agreement. The Invoice shall be based upon FUTURE COSTS incurred by the City as of the last day of the month for the six-month period being invoiced. The City's first Invoice shall be issued within six months after the Court's approval of the settlement, and include FUTURE COSTS incurred by the City since October 1, 2003. Within 45 days of transmission, Tenant shall pay the Invoice or pay those portions of the Invoice that are undisputed and notify the City in writing of its intention to challenge an item of the Invoice pursuant to Paragraph 4 below, with such writing to specifically identify (1) the items or amounts that are in dispute and (2) the basis of such dispute.

2. Invoice Report. The Invoice shall be accompanied by an accounting of the amounts charged to Tenant in the Invoice ("**Invoice Report**"), including the total amount from which Tenant's percentage allocation has been derived. The Invoice Report

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CONFIDENTIALITY AGREEMENT  
MAY NOT BE DISCLOSED

shall include the following information, to the extent the information is applicable to specific costs: (i) description of activity, including labor and equipment, soil stockpiling and sampling, laboratory analytical fees, stockpile management, treatment and/or offhauling of contaminated soil, landfill and disposal fees, storage, treatment and disposal of contaminated groundwater; (ii) date(s) or date range of activity; (iii) project name and contract number; (iv) airport location where costs were incurred, including plot and/or building number(s).

**3. Back-up or Supporting Material:** At the time the Invoice is submitted to Tenant, the City shall place the supporting invoices, related contract materials and maps pertinent to these specific incurred Future Costs into a central location for the Tenant's review upon its provision of reasonable notice. Upon written request of Tenant, the City shall make available to Tenant information regarding THIRD PARTY CLAIMS made against the City.

**4. Challenges to Invoices.** Tenant may challenge an item or amount in the Invoice on the following grounds: (i) that certain items or amounts are not within the definition of FUTURE COSTS; (ii) that certain items or amounts do not relate to EXISTING CONTAMINATION; (iii) that certain items or amounts were incurred within the United Airlines Maintenance Operations Center or Plot 9B, and Tenant is not responsible under the terms of the Agreement for those areas; (iv) that the Invoice contains a mathematical error, is based on erroneous calculations or incorrect percentage allocation; or (v) there are no documents in the central location to support the Invoice, except that the City may provide those documents which will cure this defect ("Disputed Matter"). The Parties will resolve the challenge using the levels of dispute resolution

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CONFIDENTIALITY AGREEMENT  
MAY NOT BE DISCLOSED

described below. In a single Invoice, for a Disputed Matter which is \$25,000 or less, the first and second levels described below will be the only available challenge, and the decision of the City will be final. Tenant shall pay any resolved amount within 30 days of the resolution. The first and second levels shall be completed within 60 days.

a. First Level. Tenant and the City shall negotiate in good faith to resolve the Disputed Matter. Each Party will designate staff or individuals to be the person or persons to discuss the Disputed Matter. The Parties' respective "First Level Persons" are as follows:

	A. Title	B. Currently
TENANT	Manager, Regional Environmental	Bruce Campbell
CITY	Environmental Manager	Sam Mehta

b. Second Level: In the event that the First Level Persons are unable to resolve the Disputed Matter, the Parties will designate senior managers at the Deputy Director or Vice-President level to discuss the Disputed Matter. Currently, the Parties' "Second Level Persons" are as follows:

	C. Title	D. Currently
TENANT	Managing Director - Corporate Real Estate	Tim Skipworth
CITY	Deputy Director, Planning, Design & Construction	Ivar Satero

In the first or second levels, either Party may replace any of its designated representatives by giving reasonable notice to the other Party.

c. Third Level -- Mediation: For disputes exceeding \$25,000 only, if the Parties cannot agree or resolve the Disputed Matter using the first or second levels described above within sixty (60) days after the Tenant's receipt of the Invoice, the

3 SETTLEMENT DISCUSSIONS SUBJECT TO  
CONFIDENTIALITY AGREEMENT  
MAY NOT BE DISCLOSED

parties shall attempt to reach agreement, within fifteen (15) days, on the procedures for nonbinding mediation. If the parties cannot agree on such procedures within fifteen (15) days, then either City or Tenant may elect to submit the matter to nonbinding mediation unilaterally by providing the other party fifteen (15) days written notice thereof. In the event of any such mediation, the mediation shall be administered by JAMS, and shall be conducted in the City and County of San Francisco. Two or more Settling Parties may group together in one mediation their respective challenges to Disputed Matters that arise from the same nucleus of operative fact, and the aggregate amount of those combined challenges shall apply to meet the \$25,000 threshold herein.

(i) Qualifications of Mediator. Upon receipt of a request for mediation, JAMS will appoint a qualified mediator to serve. No person shall serve as a mediator who has worked for the San Francisco International Airport or Tenant, except that the mediator may have mediated regarding Phase I of this Action or regarding prior Disputed Matters over prior Invoices. The mediator shall not have a bias in favor of either Party. Prior to accepting an appointment, the prospective mediator shall disclose any circumstance likely to create a presumption of bias or prevent a prompt meeting with the parties. Upon receipt of such information, JAMS shall either replace the mediator or immediately communicate the information to the parties for their comments. In the event that the parties disagree as to whether the mediator shall serve, JAMS will appoint another mediator. To be qualified, the mediator must have not less than five (5) years of experience in resolving disputes through mediation.

(ii) Limitation on Powers and Expenses. The mediator shall have no power to modify or enforce any provisions of this Agreement and its jurisdiction

4 SETTLEMENT DISCUSSIONS SUBJECT TO  
CONFIDENTIALITY AGREEMENT  
MAY NOT BE DISCLOSED

is limited accordingly. The expenses of mediation shall be borne by the party or parties seeking the mediation if the Disputed Matter is \$250,000 or less, or borne equally by City and Tenant(s) if the Disputed Matter is greater than \$250,000, provided that each party shall be responsible for fees and expenses of its own experts, evidence and attorneys.

The mediation shall be non-binding on both Parties.

d. Fourth Level – Judicial Resolution: The Court retains continuing jurisdiction to resolve any Disputed Matter. If after non-binding mediation, the Disputed Matter is not resolved, Tenant or the City may, within thirty (30) days after the conclusion of the mediation, file a noticed motion with the Court to set the matter for hearing. If neither Tenant nor the City seeks judicial relief during the thirty (30) day period, the Disputed Matter shall be deemed withdrawn by Tenant and Tenant shall remit payment on the previously disputed Invoice within thirty (30) days after the conclusion of the mediation. If a motion for judicial resolution is filed, Tenant shall remit payment in the amount and at the time that the Court shall order.

5. If Tenant fails to pay the Invoice as required herein, and such failure to pay shall continue for a period of thirty (30) days, Tenant's failure to pay shall be a breach and an event of default under the Settlement Agreement. Upon the occurrence and continuance of such an event of default, the City shall have the following remedies which shall not be exclusive, but shall be cumulative, and shall be in addition to any other remedies now or hereafter allowed by law or equity:

a. The City may terminate the Settlement Agreement at any time by written notice to Tenant pursuant to Section XI of the Settlement Agreement. Tenant shall be given 30 days from receipt of this written notice to cure the default by payment

5 SETTLEMENT DISCUSSIONS SUBJECT TO  
CONFIDENTIALITY AGREEMENT  
MAY NOT BE DISCLOSED

of the amount plus interest provided by Paragraph 5(c) below. Upon such termination of the Settlement Agreement, all provisions of Section III.B regarding termination shall immediately apply.

b. The City may continue the Settlement Agreement in full force and effect and may enforce all of its rights and remedies under the Settlement Agreement, including, but not limited to, the right to recover costs past due and costs as they become due.

c. Tenant shall be responsible for payment of a penalty of one percent per month of the unpaid amounts for all Invoices that are not paid by the due date specified under this Settlement Agreement. If Tenant challenges a specific cost pursuant to Section 4 above, that cost shall not be subject to this penalty provision until the conclusion of Tenant's challenges.

d. No remedy reserved to the City is intended to be exclusive of any other available remedy or remedies, but is intended to be cumulative. The City's delay or omission to exercise any right or power occurring under any default shall not impair any such right or power and shall not be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient by City.



