

0150-11038-0000

**TRANSMITTAL**

TO  
The Council

DATE  
2/27/18

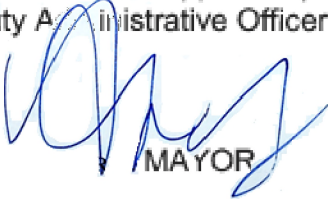
COUNCIL FILE NO.

FROM  
The Mayor

COUNCIL DISTRICT  
11

**Lease between the Los Angeles World Airports and the Bureau of Sanitation for the development of the Argo Drain Sub-basin Storm Water Facility on five acres of land owned by the Los Angeles World Airports.**

Transmitted for your consideration. The Council has 30 days from the date of the receipt to act; otherwise, the Lease will be deemed approved pursuant to Charter Section 606.  
See the City Administrative Officer report attached.



(Ana Guerrero) for

MAYOR

RHL:SMC:06180047t

**REPORT FROM**

**OFFICE OF THE CITY ADMINISTRATIVE OFFICER**

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Date: February 23, 2018

CAO File No. 0150-11038-0000

Council File No.

Council District: 11

To: Mayor

From:   
Richard H. Llewellyn, Jr., Interim City Administrative Officer

Reference: Transmittal from the Board of Public Works dated November 8, 2017 and Report to the Board of Airport Commissioners dated October 5, 2017; referred by the Mayor on October 30, 2017.

Subject: **LEASE AGREEMENT BETWEEN THE CITY OF LOS ANGELES, ACTING BY AND THROUGH THE BOARD OF PUBLIC WORKS, AND THE LOS ANGELES WORLD FOR THE DEVELOPMENT OF THE ARGO DRAIN SUB-BASIN STORMWATER PROJECT**

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**RECOMMENDATIONS**

That the Council:

1. Find that a proposed lease term of 50 years would be in the best interest of the City; and
2. Authorize the Board of Public Works, on behalf of the Bureau of Sanitation (Bureau), and the Board of Airport Commissioners to execute a proposed 50-year lease agreement between the Bureau and Los Angeles World Airports for the construction and operation and maintenance of the Argo Drain Sub-basin Storm Water Facility on five acres of land owned by the Los Angeles World Airports, subject to the review and approval of the City Attorney as to form and legality.

**SUMMARY**

In accordance with Executive Directives 3 and 4, the Board of Public Works, on behalf of the Bureau, and the Los Angeles World Airports (LAWA), request to execute the proposed Lease for the Bureau to construct, operate, and maintain the Argo Drain Sub-Basin Storm Water Facility (Argo Drain Facility) on approximately five acres of LAWA property, located north of Westchester Parkway, between Falmouth Avenue and Pershing Drive. The term of the Lease will be effective for 50 years upon the date of execution or until termination by LAWA with 24-months advance written notice. The Lease was approved by the Board of Airport Commissioners and the Board of Public Works on October 5, 2017 and November 8, 2017 respectively.

The Bureau and LAWA are required to comply with the federal Clean Water Act requirements regarding the discharges of pollutants into receiving water bodies, as well as those administered

through the National Pollutant Discharge Elimination System Municipal Separate Storm Sewer System Permit (“MS4 permit”). LAWA is also subject to more restrictive regulations required by the Industrial General Permit for stormwater-related discharges from industrial areas of LAWA. In 2015, the Bureau and LAWA entered into a Memorandum of Understanding for LAWA to contribute approximately \$2.74 million towards the cost of preparing the design and environmental documents for the Argo Drain Facility and the Imperial Drainage Basin projects. These projects will mutually benefit both parties as it will allow each agency to meet their compliance requirements.

**ARGO DRAIN FACILITY AND IMPERIAL DRAINAGE BASIN PROJECTS**

The Argo Drain Facility will divert and treat stormwater runoff from a watershed area of approximately 2,200 acres, which will then be pumped into underground infiltration galleries to recharge the groundwater basin. Approximately half of the runoff is generated by LAWA’s properties. The current total project budget is \$39.7 million, comprised of \$30.2 million from Proposition O funds and \$9.5 million in LAWA funds, of which \$6.8 million, or 17.5 percent of the hard construction costs, whichever is less, is provided under this Lease. The project is estimated to be completed by February 2021.

The Imperial Drainage Basin Project (also known as the North Central Outfall Sewer project connection) will be constructed and funded by LAWA. The project will collect stormwater runoff from future developments/redevelopments at LAWA in the Imperial/Pershing Sub-basin via a new high-flow diversion structure that will divert up to 60 million annual gallons of captured stormwater runoff to a sewer line and then to the Bureau’s Hyperion Treatment Plant. This connection to the sewer system would require LAWA to pay a one-time fee of \$600,000 for the Sewer Facilities Charge. Additionally, LAWA is required to pay annual Sewer Service Charges (SSC), Significant Industrial User (SIU) Fee, and Inspection and Control (IC) Fee associated with this connection. The SSC, SIU Fee, and IC Fee will be applied as future rent offsets instead of being paid to the Sewer Construction and Maintenance (SCM) Fund. The project is estimated to be completed by September 2018.

**PROVISIONS OF THE LEASE**

LAWA reports that the Federal Aviation Administration approved the land to be leased instead of being purchased. As such, the Bureau and LAWA propose to enter into a Lease agreement for the Bureau to construct, operate and maintain the Argo Drain Facility on LAWA’s property. Both parties anticipate that the annual rent (estimated at \$527,181) will be fully offset, in the form of a credit, against LAWA’s cost, as shown in the table below:

Bureau		LAWA	
Annual Rent	\$ 527,181	O & M Cost	\$ 255,646
		SSC	\$ 277,567
		SIU Fee	\$ 3,607
		IC Fee	\$ 1,749
Total:	\$ 527,181	Total:	\$ 538,569

The annual rent is subject to annual adjustments ranging from two to seven percent, as well as periodic adjustments to fair market value every five years starting July 1, 2024, to LAWA. The first rent payment will be due either 24 months from the date of lease execution or the completion date of the Argo Drain Facility, whichever is earlier. The estimated total rent cost over a 50 year period, based on the current annual rent with an annual two percent adjustment and no periodic adjustment to fair market value, is \$44.6 million.

The Lease also includes the following provisions regarding the charges and adjustments:

- The O&M cost, SSC, SIU Fee, and IC Fee (collectively referred to as charges) will be subject to the same annual adjustment as the annual rent.
- It should be noted that the SSC, SIU Fee, and IC Fee are currently subject to a 6.5 percent rate increase for the next three years. Therefore, the combined total of the charges cannot exceed the annual rent amount.
- Should the annual adjustment exceed seven percent, the maximum allowable per year, then any exceedances over the seven percent will be added to the annual adjustment for the following year.
- Should a rental reduction occurs, the Bureau will be provided with a rent credit.
- Lastly, if the actual SSC exceed the agreed-upon SSC, SIU, and IC Fee not to exceed amount, then the Bureau, not LAWA, will pay for the exceedance amount.

Although the annual rent is deemed to be fully offset by LAWA's cost, the Bureau's SPA Fund will inherently bear the costs associated with this Lease agreement as follows: the annual rent cost (\$527,181) and the O&M cost (\$511,291). While LAWA's share of the O&M cost (estimated at \$255,646) will partially offset the cost to the SPA Fund, the SSC, SIU Fee and IC Fee, which are typically paid to the SCM Fund and reflected as SCM revenues, will be applied as rent offsets. According to the City's Financial Policies, Special Revenue Funds are not to be used to subsidize other funds and thus, the SSC, SIU Fee and IC Fee, which are provided as a rent offset to the SPA Fund, will need to be reimbursed by the SPA Fund. Therefore, the net annual cost of this agreement to the SPA Fund is approximately \$794,000, comprised of the O&M cost, SSC, SIU Fee and IC Fee.

As the SPA Fund is carrying a structural deficit and historically requires a General Fund subsidy to meet its related cost obligation, any additional appropriation from the SPA Fund will further reduce the related cost payments to the General Fund. Therefore, this lease agreement may represent a General Fund liability should SPA funds not be available.

The Lease will remain in effect for 50 years from the date of execution. LAWA may terminate the Lease with a 24-month prior written notice unless there is a safety or security concern that necessitates earlier or immediate termination, subject to a termination fee. The termination fee will be based on the undepreciated value of the Argo Facility which will be calculated on a monthly straight-line basis from the occupancy or completion date, less any contributions or reimbursements from LAWA. The City Attorney reports that a similar termination provision for the City is not necessary as terminating this lease agreement will expose the City to liability and non-compliance with the MS4 permit.

In accordance with the Charter Section 607, leases shall not exceed 30 years or the term specified by applicable federal or state law, whichever is less. Should the term be longer than 30 years, the Council must find that it is in the City's best interest. The Council may, by a two-thirds vote, subject to Mayoral veto, authorize a term up to 50 years or the maximum period allowed by any federal or state law, whichever is less, for LAWA leases.

## **FISCAL IMPACT STATEMENT**

Both agencies anticipate that the annual rent cost to the Bureau of Sanitation will be fully offset by LAWA's cost. It should be noted that the Bureau will bear an estimated total cost of \$794,000 per year within the Stormwater Pollution Abatement Fund. This cost consists of the annual operation and maintenance (O&M) costs for the Argo Drain Facility (\$511,291) and the SSC, SIU Fee, and IC Fee that the SPA Fund has to reimburse to the Sewer Construction and Maintenance Fund for the rent offsets. The Stormwater Pollution Abatement Fund, which carries a structural deficit, is currently being subsidized by the City General Fund. Therefore, if the Bureau costs are not offset by corresponding reductions in the SPA Fund in future years, the City General Fund will be impacted. The total cost of the Argo Drain Facility project, \$39.7 million, is fully funded by Proposition O General Obligation Bond funds (\$30.2 million) and Los Angeles World Airport (\$9.5 million). The proposed Lease agreement complies with the adopted Financial Policies in that the annual rent will be fully offset by the Los Angeles World Airports' costs and special fund revenues will support proposed expenditures.

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