

**EQUIPMENT ACQUISITION AGREEMENT BY AND BETWEEN THE CITY OF LOS
AND TOM BRADLEY INTERNATIONAL TERMINAL EQUIPMENT COMPANY
PURSUANT TO LEASE NO. LAA-8600**

THIS EQUIPMENT ACQUISITION AGREEMENT (this "Agreement") is made as of _____, 2016 ("Effective Date") between the CITY OF LOS ANGELES, acting by and through the Board of Airport Commissioners of its Department of Airports ("City" or "LAWA"), and Tom Bradley International Terminal Equipment Corporation, a California nonprofit mutual benefit corporation ("TBITEC").

RECITALS

- A. TBITEC has entered into an Amended and Restated Lease and License Agreement with City to lease, operate, and maintain certain space and City-owned equipment at Tom Bradley International Terminal ("TBIT"), Terminal 2, Terminal 3, TBIT North, West, and East Tunnels and the Midfield Satellite Concourse ("MSC") dated _____, 20__ (as in effect on the date hereof, the "TBITEC Lease"; capitalized terms used and not otherwise defined herein shall have the meanings set forth in the TBITEC Lease).
- B. Pursuant to Section 8.03(b)(iii), TBITEC seeks to exercise its right, but not obligation, to procure and install the following New Aeronautical Equipment: baggage handling system and early bag storage system in a new North Baggage Handling Facility; baggage handling system and early bag storage system in the MSC; and an Individual Carrier System (ICS) to connect the existing outbound baggage in TBIT to the MSC and new North Baggage Handling Facility; and making other necessary improvements consistent with the items depicted in Exhibit A while continuing operations of the TBIT baggage handling system.
- C. In accordance with Section 8.03(b) (iii) of the TBITEC Lease, TBITEC has submitted and the Chief Executive Officer has approved the Equipment Finance Plan and the Equipment Information, and TBITEC has complied with all other conditions of Section 8.03(b) (iii) (A)-(D) of the TBITEC Lease with respect to the TBITEC-Procured Equipment.
- D. In accordance with Section 8.03(b) (iii) of the TBITEC Lease, TBITEC has requested City, and City desires, to exercise City's right to acquire the TBITEC-Procured Equipment by paying the Reimbursement Value to TBITEC.

NOW, THEREFORE, in consideration of the promises and the mutual covenants and agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

AGREEMENT

1. **TBITEC-Procured Equipment.** City acknowledges that TBITEC will acquire and cause the installation of the TBITEC-Procured Equipment described on Exhibit A, which Exhibit A may be amended or replaced by City with the prior mutual approval by TBITEC and the Chief Executive Officer.
2. **City's Acquisition.** City agrees to exercise its right under the TBITEC Lease to acquire the TBITEC-Procured Equipment described on Exhibit A pursuant to the terms and conditions of the TBITEC Lease and the terms herein.
3. **Term.** This Agreement shall commence on the Effective Date and shall expire on the earlier to occur of (1) City making the final Acquisition Payment (as defined below) to TBITEC for the TBITEC-Procured Equipment or (2) December 31, 2023, which date can be extended by the Chief Executive Office for up to one hundred eighty (180) days, in her/his sole discretion.
4. **Construction Approvals.** TBITEC shall follow for the construction of the TBITEC-Procured Equipment noted in Exhibit A the procedures in the LAWA Tenant Improvement Approval Process as set forth in the 2016 Design and Construction Handbook found at <http://www.lawa.org/laxdev/DesignConstructionHandbook.aspx?id=Int>.
5. **Records and Reports.** During the installation of TBITEC-Procured Equipment, TBITEC will provide to LAWA Commercial Development Group and LAWA Project Development Group Project Manager a monthly report of all expenditures (approved costs, approved change orders, schedules, contingency funds, etc.).
6. **Acquisition Payment.** Upon Completion (as defined below) of the TBITEC-Procured Equipment as shown on Exhibit A, City shall pay TBITEC the Reimbursement Value in (a) one (1) lump sum payment ("Single Payment") or (b) a separate payment for each component ("Component") of the TBITEC-Procured Equipment (each separate payment, a "Component Payment"). The Single Payment or the aggregate of the Component Payments shall be referred to herein as the "Acquisition Payment". The Acquisition Payment shall not exceed Seventy-Five Million Dollars (\$75,000,000).
 - 6.1. TBITEC shall submit notification of Completion of either the TBITEC-Procured Equipment or a Component of the TBITEC-Procured Equipment to City. "Completion" means that the following has occurred: (1) TBITEC has completed all requirements under (a) the TBITEC Lease as it relates to the TBITEC-Procured Equipment (b) this Agreement, and (c) the construction approval permits issued by City, to include punch-lists and close-out requirements as established by the LAWA Design and Construction Handbook as of the effective date of this Agreement for the TBITEC-Procured Equipment or the Component of the TBITEC-Procured Equipment, as applicable; (2) TBITEC has obtained certification of the TBITEC-Procured Equipment or Component of the TBITEC-Procured Equipment, as applicable, from the Transportation Security Administration and other entities as it relates to the installation of the equipment; (3) all system

commissioning and training has been completed; (4) all system reports, operation and maintenance manuals, codes and keys (if applicable), warranties (if applicable), and other documentation as requested by LAWA; and, (5) as-built drawings and specifications of the TBITEC-Procured Equipment or the Component of the TBITEC-Procured Equipment, as applicable.

6.1.1. Within thirty (30) days of receipt of such notice, the Chief Executive Officer shall provide written verification of Completion of the TBITEC-Procured Equipment or the Component of the TBITEC-Procured Equipment, as applicable, or identify those requirements for Completion that City determines have not been met by TBITEC.

6.1.2. Upon receipt of the Chief Executive Officer's certification of Completion, TBITEC shall deliver to City a written request for payment of the Single Payment or Component Payment, respectively, along with (1) a written declaration by an officer of TBITEC that certifies the Reimbursement Value for and the Completion of the TBITEC-Procured Equipment or Component of the TBITEC-Procured Equipment, as the case may be, and (2) proof of payment (which shall consist of (a) copies of the relevant invoices and (b) cancelled checks or records of electronic funds transfers evidencing payment of these invoices of the actual expenses incurred by TBITEC for the TBITEC-Procured Equipment or Component of the TBITEC-Procured Equipment, as the case may be (the "TBITEC Request").

6.1.3. Upon timely receipt of the TBITEC Request, City shall make the Single Payment or the Component Payment, as applicable, within sixty (60) days, provided that City has determined that TBITEC has complied with the conditions of Section 8.03(b)(iii) of the TBITEC Lease with respect to the TBITEC-Procured Equipment and the provisions herein.

6.2. Provided that the conditions of Section 6.1 above have been met, City's Single Payment or Component Payment shall not in any way be reduced, encumbered or otherwise conditioned or offset based on TBITEC's performance hereunder or under the Lease.

6.3. Notwithstanding the foregoing, City shall have the right to dispute the amount of the Single Payment or the Component Payment, as applicable, based on insufficient documentation. To the extent that City disputes a portion of the Single Payment or the Component Payment, as applicable, due to insufficient documentation with respect thereto, City shall so notify TBITEC within sixty (60) days of the TBITEC Request and shall have the right to withhold any disputed amounts of the Single Payment or the Component Payment, as applicable, until such amounts have been verified and documented to the reasonable satisfaction of City. City shall also submit to TBITEC an explanation of the disputed amount or the required documentation. TBITEC shall respond within sixty (60) days and City and TBITEC shall meet to resolve any disputes or documentation issues within sixty (60) days of TBITEC's response.

6.4. Pursuant to Section 8.03(b) (iii) (E) of the TBITEC Lease, upon payment by City to TBITEC of the Single Payment or the Component Payment, title to the TBITEC-Procured

Equipment or the Component of the TBITEC-Procured Equipment, respectively, shall vest in City. TBITEC shall be responsible for filing all necessary documentation to record such title to City.

6.5. The Acquisition Payment will exclude costs for vehicles, spare parts, tools and equipment purchases, and all other costs typically associated with the operations and maintenance of baggage handling systems, early baggage storage and Independent Carrier System.

7. **Financing Arrangement.** TBITEC shall have the right to assign its right to receive the Acquisition Payment for security, with the prior written consent of the Chief Executive Officer, which consent shall not be unreasonably withheld, to a reputable nationally recognized lender or lending institution ("Approved Lender") in connection with the financing of the TBITEC-Procured Equipment authorized herein (the "Financing Arrangement"). Other than in connection with the Financing Arrangement permitted above, TBITEC shall not otherwise pledge, hypothecate, encumber, or mortgage the TBITEC Lease or its interest in the TBITEC Lease. In connection with TBITEC's request for consent to any such Financing Arrangement, TBITEC shall submit for the Chief Executive Officer's prior review and written approval any and all instruments and documents to be executed by, or binding upon, TBITEC in connection therewith (the "Financing Arrangement Documents"). In the event such Financing Arrangement is approved in writing by the Chief Executive Officer and the Acquisition Payment is so assigned, City shall not be bound, nor shall the terms, conditions, and covenants of the TBITEC Lease nor the rights and remedies of City hereunder be in any manner limited, restricted, modified, or affected by reason of the terms or provisions of the Financing Arrangement Documents. The only other rights or obligations of any such Approved Lender under an approved Financing Arrangement shall be as follows:

7.1. **Approved Lender's Rights and Obligations.**

7.1.1. With respect to any notices to be delivered or other actions taken by TBITEC hereunder, at any time after the occurrence of a Notice Event (defined below), Approved Lender shall have the sole and complete authority to deliver all such notices and take any such actions of TBITEC hereunder, and City shall accept such notices and actions from Approved Lender. For the purposes hereof, a "Notice Event" shall occur if Approved Lender has certified to City in writing that, pursuant to the terms of the Financing Arrangement Documents, Approved Lender has the right to give such notices or take such actions on behalf of TBITEC hereunder.

7.1.2. If the TBITEC Lease or TBITEC's rights thereunder are terminated for any reason, whether by reason of default of TBITEC or City, termination after casualty or condemnation, rejection of the TBITEC Lease in any bankruptcy case, voluntary surrender and acceptance, or otherwise ("Termination"), then City shall give written notice of such termination to Approved Lender.

7.1.3. In the event of Termination, Approved Lender shall have no obligation to pay to City any amounts of money owing to City by TBITEC under the terms of the TBITEC Lease and Approved Lender shall not be liable for or otherwise required to

cure any defaults of TBITEC under the TBITEC Lease or otherwise bound to perform any of the terms, conditions, and covenants of the TBITEC Lease.

7.1.4. Subject to a Notice Event under Section 7.1.1, in the event TBITEC fails to take any action required on TBITEC's part as a condition of Completion, City shall accept Approved Lender's performance of TBITEC's rights and obligations under this Agreement or the TBITEC Lease with respect to the TBITEC-Procured Equipment or a Component of the TBITEC-Procured Equipment as if made by TBITEC. Approved Lender shall be entitled to receive the Acquisition Payment under the same terms and conditions as TBITEC, as such terms and conditions are described in Section 6.

7.1.5. In any case commenced by or against TBITEC under the Bankruptcy Code, Approved Lender shall have standing to appear and act as a party to the TBITEC Lease for purposes of Section 365 of the Bankruptcy Code (but shall not have any obligations under the TBITEC Lease unless Approved Lender expressly assumes the TBITEC Lease). City shall, during TBITEC's bankruptcy case, serve on Approved Lender a copy of all notices, pleadings or documents given to TBITEC, and service shall be contemporaneous with and in the same manner as given to TBITEC.

7.1.6. If TBITEC files with the Chief Executive Officer a written assignment of its right to participate in the distribution of any insurance or condemnation proceeds, assigning all or a portion of its right, title, and interest in and to such proceeds to Approved Lender, and further, if the indebtedness under the Financing Agreement has not been fully paid, satisfied and the security for the debt released, then such Approved Lender shall be entitled to the distribution of the insurance or condemnation proceeds, if any, payable to TBITEC to the extent of such Approved Lender's interest therein.

8. **Actual Equipment Cost.** For avoidance of doubt, City and TBITEC agree that the Actual Equipment Cost shall include (1) all costs TBITEC reasonably incurred for procuring and installing the TBITEC-Procured Equipment, including, but not limited to, project management and construction management costs and (2) Financing Costs. "Financing Costs" shall mean (1) all incurred or accrued interest charges and related financing costs or charges owing by TBITEC in connection with the Financing Arrangement or (2) if TBITEC uses its own funds, an annualized interest rate that will be established on the date of execution of this Agreement as the 5-year US Treasury Bond plus two percent (2.00%) applied to the actual costs for the TBITEC-Procured Equipment from the date of expenditure by TBITEC until the date that City makes the Single Payment or the Component Payment, as the case may be. Financing Costs, for the purpose of determining the Actual Equipment Cost, shall be evidenced by (1) providing a statement from the Approved Lender of all incurred or accrued interest charges and related financing costs or charges owing by TBITEC in connection with the Financing Arrangement or (2) if TBITEC uses its own funds, a calculation of accrued interest certified by an officer of TBITEC.

9. **Right of Entry Agreement.** City agrees to provide a right of entry agreement to Approved Lender and TBITEC's agents, servants, employees, contractors, licensees and business invitees for the purposes of the Completion of the TBITEC-Procured Equipment, upon approval as to form by the City Attorney.
10. **Project Labor Agreement.** City, through its agreement coordinator, has entered into a project labor agreement with various trades (the "PLA"). TBITEC agrees to require its contractors to sign the Letter of Assent, attached hereto as Exhibit B, agreeing to be subject to the terms of the PLA. City agrees that this requirement applies solely to the acquisition and installation of the TBITEC-Procured Equipment.
11. **Operation of the TBIT Outbound Baggage System.** TBITEC shall install the TBITEC-Procured Equipment in such a manner that will allow continuous operation of the TBIT baggage handling system.
12. **Notices.** Except as otherwise provided in this Agreement, any notice, demand, or other correspondence given under this Agreement shall be in writing and given by delivering the notice in person or by commercial courier, or by sending it by first-class mail, certified mail, return receipt requested with postage prepaid, or by overnight commercial express mail, or by facsimile to:

<p>City: Chief Executive Officer Los Angeles World Airports One World Way Los Angeles, CA 90045</p>	<p>TBITEC: Chairperson 380 World Way, Box S-18 Los Angeles, CA 90045</p>
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or to such other address as either TBITEC or City may designate as its new address for such purpose by notice given to the other in accordance with this Section. Any notice hereunder shall be deemed to have been given and received two (2) days after the date when it is mailed, if sent by first-class, certified mail, one day after the date when it is mailed if sent by overnight express mail, upon the date personal delivery is made, or upon the date on which the facsimile copy is transmitted, provided, that such transmission is received on a business day between the hours of 8:00 a.m. and 5:00 p.m., and if not so received, then as of 8:00 a.m. on the next business day.

13. **Miscellaneous.**
 - 13.1. City acknowledges that it is the record and beneficial owner of TBIT, the MSC, and the North Baggage Facility and that the TBITEC Lease has not been subordinated by City to any mortgage, lien or other encumbrance.
 - 13.2. It is understood and agreed by and between the parties that, except as specifically provided herein, this Agreement shall not, in any manner, alter change, modify or affect any of the rights, privileges, duties or obligations of either of the parties under the TBITEC Lease (including operations and maintenance of the baggage handling

system), and except as expressly amended herein, all of the terms, covenants and conditions of the TBITEC Lease, shall remain in full force and effect.

- 13.3. This Agreement shall be binding upon the parties hereto and their respective heirs, personal representatives, successors and assigns.
- 13.4. This Agreement may be executed in a number of identical counterparts, each of which for all purposes is deemed an original, and all of which constitute collectively one agreement.
- 13.5. If any provision of this Agreement is determined to be void by any court of competent jurisdiction, then such determination shall not affect any other provision of this Agreement, and all such other provisions shall remain in full force and effect.
- 13.6. It is the intention of the parties hereto that if any provision of this Agreement is capable of two constructions, one of which would render the provision void and the other of which would render the provision valid, then the provision shall have the meaning which renders it valid.
- 13.7. This Agreement shall be construed and enforced in accordance with the laws of the State of California and venue shall lie in the appropriate U.S. Federal Court or California Superior Court located in Los Angeles County.
- 13.8. This Agreement contains the entire agreement between the parties hereto and supersedes any and all prior written or oral agreements between them concerning the subject matter contained herein. There are no representations, agreements or understandings, oral or written, between and among the parties relating to the subject matter contained in this Agreement which are not fully set forth herein. This is an integrated agreement.
- 13.9. In the event that either party hereto shall be delayed or hindered in or prevented from the performance of any act required hereunder by reason of acts of God, acts of public enemies (such as war, invasion, insurrection, terrorism, riots rebellion or sabotage), earthquakes, fires, floods, hurricanes, tornadoes and other extreme weather conditions; then performance of such act shall be excused for the period of the delay and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay. In the event that as a result of such events described in this Section 13.9, TBITEC is prohibited from completing its obligations hereunder, TBITEC shall have the right to terminate this Agreement and City shall pay TBITEC for the actual expenses incurred by TBITEC for the TBITEC-Procured Equipment through the date of termination of this Agreement, pursuant to the procedures set forth in Section 6.

[signature page follows]

IN WITNESS WHEREOF, City and TBITEC have respectively executed this Agreement as of the day and year first above written.

APPROVED AS TO FORM:

CITY OF LOS ANGELES

MICHAEL N. FEUER,
City Attorney

Date: 11/21/16

Date: _____

By: *Cynthia Meyers*
Deputy/Assistant City Attorney

By: _____
Chief Executive Officer
Department of Airports

By: _____
Ryan Yakubik
Deputy Executive Director-
Chief Financial Officer

ATTEST:

**TOM BRADLEY INTERNATIONAL
TERMINAL EQUIPMENT COMPANY**

By: *Ziya Akbas*
Signature (Secretary)

By: *Carrie E. Sullivan*
Signature

Ziya AKBAS
Print Name

Carrie E. Sullivan
Print Name

Chair Person
Print Title

EXHIBIT A

TBIT CBIS ENHANCEMENT

Scope Component	Description
Checked Baggage In-line System/Checked Baggage Reconciliation Area	Removal of TBIT conveyor-lane based early baggage storage and outbound sortation and make up systems and the removal and replacement of TBIT CBIS/CBRA systems and re-work of check in and delivery conveyor systems to interface with the new CBIS/CBRA systems.
ESTIMATED COST	\$75,000,000

* This exhibit may be replaced by the Chief Executive Officer to add components upon review and approval of the City Attorney as to form without further review/approval of the Board of Airport Commissioners or City Council so long as the estimated cost is not increased.

EXHIBIT B

LETTER OF ASSENT

(To be signed by All Contractors Undertaking Work Covered
by the Project Labor Agreement Prior to Commencing Work]
(Contractor Letterhead)

Agreement Coordinator
c/o Parsons Constructors Inc.
100 West Walnut Street
Pasadena, California 92408
Attn:

Re: Los Angeles International Airport Project
Labor Agreement - Letter of Assent

Dear Sir:

This is to confirm that (Name of Company) agrees to be a party to and bound by the Los Angeles International Airport Project Labor Agreement (the "Agreement") as entered into by and between Parsons Constructors Inc., its successors or assignees, and the Building and Construction Trades Department, AFL-CIO and other Building and Construction Trades Councils and signatory unions, dated November 19, 1999, as such agreement may from time to time, be amended by the negotiating parties or interpreted pursuant to its terms.

Such obligation to be a party to and bound by this Agreement shall extend all work covered by the Agreement undertaken by this Company on the Project pursuant to Contract No. (Contract No. or Identifying Description), and this Company shall require all its subcontractors, of whatever tier, to be similarly bound for all their work within the Scope of the Agreement by signing an identical Letter of Assent.

Sincerely,

(Name of Construction Company)

By:

(Name & Title of Authorized Executive)

cc: City of Los Angeles, Department of Airports

(Copies of this Letter will be available for inspection or copying on request of the Union).