

**CONSENT TO ASSIGNMENT AND
FIRST AMENDMENT TO CONTRACT NO. DA-5148
BETWEEN CITY OF LOS ANGELES, ABM ONSITE SERVICE – WEST, INC.,
AND ABM INDUSTRY GROUPS, LLC
FOR PROPERTY MANAGEMENT SERVICES AT
LOS ANGELES WORLD AIRPORTS/PALMDALE LANDHOLDINGS**

THIS FIRST AMENDMENT TO CONTRACT NO. DA-5148 (“First Amendment”) is made and entered into this ____ day of _____, 2021 (“Effective Date”), at Los Angeles, California, between the City of Los Angeles, a municipal corporation, acting by and through its Board of Airport Commissioners (“Board”) of the Department of Airports, also known as the Los Angeles World Airports or LAWA (collectively, “City”), on the one hand, and ABM Onsite Service – West, Inc., a Delaware corporation (“Assignor”) and ABM Industry Groups, LLC, a Delaware limited liability company (“Contractor” or “Assignee”), on the other hand. City, Assignor, and Contractor are each a “Party” to this First Amendment, and collectively are referred to herein as “Parties”.

RECITALS

The Parties hereby acknowledge and agree that their respective decisions to enter into this First Amendment are premised on the following recitals which set forth certain facts upon which the Parties agree:

A. City and Assignor entered into Contract No. DA-5148 (“Contract”), dated December 20, 2016, to have Assignor provide property and facility management services at Palmdale Landholdings (PMD) where Assignor’s on-site management office at PMD is located at 2825 East Avenue P, Building 701 Palmdale, CA 93550. Unless otherwise specified, all capitalized terms in this First Amendment shall have their meanings as set forth in the Contract.

B. As of January 1, 2017 (“Assignment Date”), Assignor assigned its right, title and interest to the Contract to Contractor (“Assignment”). Under Section 25 of the Contract, the Assignment requires City’s consent to be valid.

C. City consents to the Assignment and the Parties have agreed to extend the term of the Contract under the terms and conditions of this First Amendment.

AGREEMENT

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:

Section 1.0 Consent to Assignment. City consents to the Assignment subject to the following conditions:

1.1 Neither the Assignor nor Contractor shall, by amendment or otherwise, alter the rights and obligations contained in the Contract, any amendments thereto, or this

First Amendment (“Contract Documents”) without the prior written consent of the City, and a consent to one such change shall not be deemed to be a consent to any subsequent change.

- 1.2 Assignor and Contractor shall not assign, sell, or otherwise transfer its interest in the Contract without the prior written consent of City, and any such consent shall not be deemed to be a consent to any other subsequent transfer of any nature to any other entity. Any transfer without such consent shall be voidable at City's option. The Contract Documents, as amended or hereafter amended, shall not, nor shall any interest therein, be assignable as to the interest of either or both Contractor or Assignee by operation of law without the prior written consent of the Board.
- 1.3 Contractor shall strictly comply with, the applicable terms, covenants and conditions of the Contract Documents from and after the Assignment Date. Contractor agrees to assume all of Assignor’s obligations and liabilities under Contract Documents arising from and after the Assignment Date.
- 1.4 Assignor shall not be relieved of any obligation or liability incurred under the Contract through the Assignment Date. Notwithstanding the Assignment or any agreement to the contrary, Assignor shall remain liable under the Contract through the expiration or termination of the Contract.
- 1.5 Commencing on the Assignment Date, Assignor and Contractor shall have joint and several liability for Contractor’s obligations under the Contract Documents. City shall not be required to exhaust its remedies against Assignor or Contractor in any action against Assignor or Contractor.
- 1.6 Nothing in the Assignment shall be construed to enlarge or in any manner increase City’s obligations or duties under the Contract, or create liabilities, obligations or costs to City, or diminish Assignor’s or Contractor’s obligations to City.
- 1.7 The Assignment shall not give Assignor or Contractor any greater rights vis-à-vis City than provided under the terms of Contract Documents. To the extent that Assignor or Contractor attempt to provide greater rights, then such rights are disapproved and not consented to by the City; and the Parties each agree that all such provisions shall be void and of no effect as to City.

Section 2.0 Term of the Contract. Section 1.1 is hereby deleted in its entirety and replaced with the following:

“1.1 The term of this Contract shall commence on January 1, 2017 and shall expire on December 31, 2022, subject to the Extension Request as defined hereinbelow, provided that either Party may terminate the Contract upon 30 days’ prior written notice to the other Party.

1.1.1 Extension Requests. Provided that Contractor is not in default, Contractor shall have the option to make one (1) extension request for a one (1) year extension (“Extension Request”), subject to City approval. Contractor shall put the Extension Request in writing no later

than 60 days prior to the then-current expiration, provided City may waive the untimeliness of an Extension Request at its sole discretion. An Extension Request shall be irrevocable after being submitted to City. City shall have up to 60 calendar days to accept or reject the Extension Request. If City does not reject the Extension Request after 60 days, then it shall be deemed accepted and the Contract shall be extended without further action by City. Extension of the Contract pursuant to an Extension Request shall not require approval by the Board or City Council.”

Section 3. Effect of This First Amendment. Except as modified by this First Amendment, the Contract is hereby ratified and confirmed and all other terms of the Contract shall remain in full force and effect, unaltered and unchanged by this First Amendment. If there is any conflict between the provisions of this First Amendment and the provisions of the Contract, the provisions of this First Amendment shall prevail. Whether or not specifically amended by this First Amendment, all terms and provisions of the Contract are amended to the extent necessary to give effect to the purpose and intent of this First Amendment.

Section 4. Integration; No Third Party Beneficiaries. No provisions of the First Amendment may be further amended or added to except by a written agreement signed by the Parties or their respective successors-in-interest. Except as expressly provided for herein, this First Amendment is not intended to confer upon any person other than the Parties any rights or remedies hereunder.

Section 5. Governing Law; Interpretation. This First Amendment shall be governed by, and construed in accordance with, the laws of the State of California. The Contract and this First Amendment are subject to the provisions of the Los Angeles Administrative Code. Each Party represents and warrants that this First Amendment has been negotiated and drafted at arms length by equally sophisticated parties, and any ambiguity cannot be attributed to either Party hereto. If any provision of this First Amendment, or the application thereof to any persons or circumstances, shall be invalid or unenforceable, the remainder of this First Amendment shall not be affected thereby, and each provision of this First Amendment shall be valid and shall be enforceable to the fullest extent permitted by law. If there are any conflicts between the Contract, the Amendment, or the Assignment, then the terms of the Contract shall prevail over this First Amendment, and the Assignment, in that order.

Section 6. Rights of United States Government; National Emergency. The Contract and this First Amendment shall be subordinate to the provisions and requirements of any existing or future agreement(s) between City and the United States relative to the development, operation or maintenance of PMD, including but not limited to Airport Grant Assurances. Furthermore, the Contract and this First Amendment shall be subject to whatever right the United States Government now has or in the future may have or acquire affecting the control, operation, regulation, taking over, or use (whether exclusive or nonexclusive) of PMD during war or a national emergency.

Section 7. Execution. This First Amendment and any other document necessary for the consummation of the transaction contemplated by this First Amendment may be executed in counterparts, including counterparts that are manually executed and counterparts that are in the form of electronic records and are electronically executed. An electronic signature means a

signature that is executed by symbol attached to or logically associate with a record and adopted by a party with the intent to sign such record, including facsimile or e-mail signatures. All executed counterparts shall constitute one First Amendment, and each counterpart shall be deemed an original. The parties hereby acknowledge and agree that electronic records and electronic signatures, as well as facsimile signatures, may be used in connection with the execution of this First Amendment and electronic signatures, facsimile signatures or signatures transmitted by electronic mail in so-called PDF format shall be legal and binding and shall have the same full force and effect as if a paper original of this First Amendment had been delivered that had been signed using a handwritten signature. All parties to this First Amendment (i) agree that an electronic signature, whether digital or encrypted, of a party to this First Amendment is intended to authenticate this writing and to have the same force and effect as a manual signature; (ii) intended to be bound by the signatures (whether original, faxed, or electronic) on any document sent or delivered by facsimile or electronic mail or other electronic means; (iii) are aware that the other party(ies) will rely on such signatures; and, (iv) hereby waive any defenses to the enforcement of the terms of this First Amendment based on the foregoing forms of signature. If this First Amendment has been executed by electronic signature, all parties executing this document are expressly consenting, under the United States Federal Electronic Signatures in Global and National Commerce Act of 2000 ("E-SIGN") and the California Uniform Electronic Transactions Act ("UETA") (California Civil Code §1633.1 et seq.), that a signature by fax, e-mail, or other electronic means shall constitute an Electronic Signature to an Electronic Record under both E-SIGN and UETA with respect to this specific transaction.

Section 8.0 Representations of Assignor and Contractor. The individuals executing this First Amendment on behalf of Assignor and Contractor personally warrant that they have full authority to execute such consent on behalf of the entity for which they are acting herein. Assignor and Contractor respectively warrant that they are each duly organized, validly existing and in good standing under the laws of the state of the respective entity's organization, and is qualified to do business in California, and the persons executing this First Amendment on behalf of the respective entity have the full right and authority to execute such consent on behalf of such entity and to bind such entity without the consent or approval of any other person or entity. Each respective entity has full power, capacity, authority and legal right to execute and deliver this First Amendment and to perform all of its obligations hereunder. This First Amendment is a legal, valid and binding obligation of each respective entity, enforceable in accordance with its terms.

[Signatures on the Following Pages]

ASSIGNOR:

ABM Onsite Service – West, Inc.
a Delaware corporation

By: Jacqueline G. Luther
Signature

Assistant Secretary

Print Name

Its: Secretary / Asst. Sec. / CFO / Asst.
Treas. / Authorized Signatory

By: 
Signature

Curtis Van Buskirk

Print Name

Its: Chairman / CEO / Vice-President /
Authorized Signatory

CONTRACTOR:

ABM INDUSTRY GROUPS, LLC
a Delaware limited liability company

By: Jacqueline G. Luther
Signature

Jacqueline G. Luther

Print Name

Its: Manager / Authorized Signatory

By: 
Signature

Curtis Van Buskirk

Print Name

Its: Manager / Authorized Signatory

ABM INDUSTRY GROUPS, LLC

CERTIFICATE OF INCUMBENCY

I, JACQUELINE G. LUTHER, hereby certify that I am the duly elected and acting Assistant Secretary of ABM Industry Groups, LLC (the "Company"), a limited liability company duly organized and existing under the laws of the State of Delaware, and I further certify the following:

CURTIS VAN BUSKIRK is a Vice President of the Company, and is authorized to act in that capacity on behalf of the Company.

I FURTHER CERTIFY that in his capacity of Vice President, Mr. Van Buskirk is authorized and empowered on behalf of the Company to sign and submit to the City Of Los Angeles ("City") the attached First Amendment To Contract No. DA-5418 Between City Of Los Angeles And ABM Industry Groups, LLC For Facility Management Services At Los Angeles World Airports/Palmdale, any other agreement or bond or statement necessary for the fulfillment of obligations incurred by the acceptance of the bid or proposal to perform facility management services with the City.

IN WITNESS WHEREOF, I have hereunto set my signature on this 8th day of December 2021.

Jacqueline G. Luther

Jacqueline G. Luther
Assistant Secretary

SIGNATURE BLOCKS

IN WITNESS WHEREOF, City has caused this First Amendment to be executed on its behalf by the Chief Executive Officer (also referred to as Executive Director) or his or her designee, and Assignor and Contractor have caused the same to be executed by its duly authorized officers, all as of the day and year first herein above written.

APPROVED AS TO FORM:
MICHAEL N. FEUER
City Attorney

CITY OF LOS ANGELES:

Date: _____

By: 
MICHAEL TY, Jan 11, 2022 11:28 PST
Deputy/Assistant City Attorney

By: _____
Chief Executive Officer
Department of Airports

By: _____
Deputy Executive Director
Chief Financial Officer

(signatures continued on the following page)