

**SECOND AMENDMENT TO LEASE AGREEMENT
NO. LAA-8758
BETWEEN THE CITY OF LOS ANGELES
FOR THE DEPARTMENT OF AIRPORTS AND
DENNY'S, INC.
AT
5535 WEST CENTURY BOULEVARD, LOS ANGELES, CA 90045
AT LOS ANGELES INTERNATIONAL AIRPORT**

THIS SECOND AMENDMENT TO Lease Agreement LAA-8758 (Lease Agreement LAA-8758 is also referred herein as the "Lease") is entered into this _____ day of _____, 20____, at Los Angeles, California, by and between the **CITY OF LOS ANGELES**, a municipal corporation, (herein after referred to as "City"), acting by order of and through the Board of Airport Commissioners (hereinafter referred to as "Board") of the Department of Airports, also known as Los Angeles World Airports (hereinafter referred to as "Department" or "LAWA"), and **Denny's, Inc., a Florida corporation** (hereinafter referred to as "Denny's" or "Lessee"), each referred to herein as a "Party," or collectively, "Parties".

RECITALS

WHEREAS, City and Denny's previously entered into the Lease on January 28, 2013 with a five-year term commencing on May 1, 2013. A First Amendment to Lease was executed, which among other things, extended the term an additional three years, to April 30, 2021.

WHEREAS City and Denny's desire to extend the Lease, and City is willing to enter into an agreement to extend the Lease on the terms and conditions set forth in this Second Amendment.

WHEREAS, LAWA is developing and constructing various projects associated with its Landside Access Modernization Program ("LAMP" or "Project") that have impacted Denny's and may require portions of Denny's Demised Premises (as defined in the Lease).

WHEREAS, Denny's expressly acknowledges that LAWA's Project may impact and/or require all or portions of Denny's Demised Premises and/or reconfiguration of Denny's Demised Premises, and that in exchange for the valuable consideration provided by the extension of the Lease granted in this Second Amendment, the sufficiency of which is admitted by Denny's, Denny's agrees that any impact caused by LAWA or its Project to Denny's Demised Premises or its business operations shall not be claimed by Denny's as an element of compensation or damages under eminent domain or inverse condemnation legal theories, and that Denny's will further not make any claims under federal or state relocation laws.

WHEREAS, Denny's acknowledges and accepts: (1) that LAWA sewer, water and electric infrastructure projects will impact Lessee's Demised Premises and (2) the matters regarding

relocation of trash bins and trash servicing location, relocation or removal, as deemed necessary by LAWA, of Denny's outdoor dining area and parking area, and the interruption of ingress and egress access to Century Boulevard due to construction activities.

NOW, THEREFORE, for and in consideration of the covenants and conditions hereinafter contained to be kept and performed by the respective parties hereto, IT IS MUTUALLY AGREED as follows:

AMENDMENTS

Section 1. Article 1, Section 1.1, Description, is hereby deleted in its entirety, and a new Article 1, Section 1, Description, is hereby substituted in lieu thereof with the following:

Section 1.1 Description. 5535 West Century Boulevard, Los Angeles, CA 90045 at Los Angeles International (hereinafter referred to as "LAX") and includes (i) approximately 51,189 square feet of land, and (ii) approximately 7,347 square feet of building space ("Demised Premises.") The Demised Premises is generally delineated or depicted in the drawing on Airport Engineers' Drawing No. MLE No. 20190105 (Sheet 2 of 2), attached hereto as Exhibit A [Premises], and also identified on Exhibit B [Payments], both of which are attached hereto and incorporated by reference herein. The Demised Premises are subject to modification at City's sole and absolute discretion should any portion thereof be required or require reconfiguration for LAMP. Should the Demised Premises be modified by City, revised Exhibits A and B will be provided by City to reflect such modifications, and such revised Exhibits A and B shall become part of the Lease."

Section 2. Article 1, Section 2, Term of Lease, is hereby amended in the following respects, only. Section 2.1 is hereby modified and Section 2.1.1 is added as follows:

"2.1 This Lease shall commence on May 1, 2013, ("Commencement Date"), and shall terminate ten (10) years thereafter on April 30, 2023, with one (1) option ("Extension Option") to extend the Lease for an additional one (1) year term ("Option Term"), pursuant to the discretion of the City, unless the Lease earlier terminated pursuant to the terms provided in this Lease, provided that either party may terminate the Lease with Sixty (60) days written notice to the other party.

2.1.1 During the Option Term, the terms and conditions of this Lease shall continue in effect except as to terms and conditions of this Lease which are expressly or by their operation applicable only during the original Term of this Lease. The exercise of the Extension Option shall not require an amendment to this Lease and shall not require the prior approval or later ratification by the Board or the Los Angeles City Council. For purposes of this Lease, unless otherwise provided herein, the phrase, "term of the Lease" and/or "Term" shall include any exercised

portion of the Option Term if the Extension Option is exercised in accordance with this provision.”

Section 3. Article 1, Section 4.1.2, is hereby deleted in its entirety, and lieu thereof the following shall be inserted:

“4.1.2. As consideration for the City granting the rights in this Lease, Lessee shall pay City commencing on the Rent Commencement Date, during the Term hereof, subject to the payment terms and as provided below, the greater of Six and three quarters Percent (6.75%) of Gross Receipts (As defined below) or a Minimum Annual Guarantee (MAG) of Two Hundred and Fifty-Six Thousand Dollars (\$256,000) from all sources. At the end of each Agreement year, Lessee shall reconcile the sum of all payments remitted to the City for that Agreement year. Should the sum be greater than the MAG, Lessee shall remit payment of the difference between such sum and the MAG within thirty (30) days of the end of the Agreement year.”

Section 4. Article 1, Section 4.2 Rental Adjustments, subsection 4.2.1. is hereby deleted in its entirety and in lieu thereof the following shall be inserted:

“4.2.1. **Annual Adjustments.** Except when adjusted as provided in Article 1, Subsection 4.2.2. **Periodic Adjustment to Fair Market Rental**, below, the Monthly Rent for the Demised Premises covered under this Lease shall be subject to automatic, annual rental adjustments on July 1 (hereinafter referred to as “Annual Adjustment Date”). The Monthly Rent shall be revised and adjusted on the Annual Adjustment Date to a three percent (3%) increase over the prior year. The MAG amount shall remain fixed at the amount referenced in Section 4.1.2, until June 30, 2023. Commencing on July 1, 2023, the MAG shall adjust by standard annual increase of three percent (3%).”

Section 5. Article 1, Section 6.2, shall be deleted in its entirety, and in lieu thereof the following shall be inserted:

“6.2 Written notice to Lessee hereunder shall be given by registered or certified mail, postage prepaid, and addressed to:

Denny’s, Inc.
203 East Main Street (P-14-14)
Spartanburg, SC 29319
Attention: Tracy Keller, Senior Manager, Real Estate Portfolio
Email: tkeller@dennys.com

With a copy to:

Denny's, Inc.
203 East Main Street (P-12-03)
Spartanburg, SC 29319
Attention: Alan Young, Denny's Senior Legal Analyst – Real Estate
Email: ayoung@dennys.com

Or to such other address as Lessee may designate by written notice to City.”

Section 6. Attachment 1, Exhibit A and Exhibit B, are hereby deleted in their entirety and in lieu thereof, Attachment 1 (2nd Amendment), Exhibit A (2nd Amendment) and Exhibit B (2nd Amendment), shall be inserted and incorporated into the Lease by reference.

Section 7. Article 1, is hereby amended by adding a new provision, **Section 9**, as follows:

“Section 9. LAWA Contractor Access to Demised Premises.

It is anticipated that LAWA sewer, water and electric infrastructure projects will impact Lessee's Demised Premises. A tentative construction schedule is attached hereto as Attachment 2 and unless in the case of an emergency, LAWA will provide advanced written Notice of Construction. LAWA or its contractors may, at LAWA's sole option, assign temporary replacement parking spaces, if available. Lessee may need to find additional parking for its staff and customers at Lessee's sole expense. Any temporary use of the Demised Premises by LAWA's contractor, as detailed in LAWA's Notice of Construction, will be at no cost to contractor and is considered a temporary access right and not a permanent termination of Lessee's Demised Premises. Likewise, any temporary use of other LAWA property assigned for use by Lessee, as detailed in LAWA's Notice of Construction, will be at no cost and is considered a temporary access right and not a permanent addition to Lessee's Demised Premises.”

Section 8. Article 1, is hereby amended by adding a new provision, **Section 10**, as follows:

“Section 10. Construction Related Tenant Impacts. Lessee acknowledges that portions of the Demised Premises will be required for LAWA development projects and Lessee will provide LAWA's contractors access with the understanding that its business operations on the Demised Premises will be impacted by such construction activities. While LAWA contractors will make reasonable efforts to mitigate the impacts to Lessee's business operations, Lessee understands and accepts all such impacts and resulting conditions as part of Lessee's request to remain open during construction and shall not hold LAWA or its contractors liable in any way. Furthermore, Lessee will make all necessary

adjustments to its operations, as necessary, to protect Lessee staff and customers from construction related impacts. Lessee to coordinate with LAWA's contractors on any requested safety or status meeting and all Lessee requested action items."

Section 9. Except as amended or modified by this Second Amendment, Lease Agreement LAA-8758 is hereby ratified and confirmed and all other terms of Lease Agreement LAA-8758 shall remain in full force and effect, unaltered and unchanged by this Second Amendment. If there is any conflict between the provisions of this Second Amendment and the provisions of Lease Agreement LAA-8758, the provisions of this Second Amendment shall prevail. Whether or not specifically amended by this Second Amendment, all terms and provisions of Lease Agreement LAA-8758 are amended to the extent necessary to give effect to the purpose and intent of this Second Amendment.

Section 10. **No Third Party Beneficiaries.** No provisions of Lease Agreement LAA-8758 or this second Amendment may be amended or added to except by a written agreement signed by the Parties or their respective successors-in-interest. This Second Amendment is not intended to confer upon any person other than the Parties, any rights or remedies hereunder.

Section 11. **Governing Law; Interpretation.** This Second Amendment shall be governed by, and construed in accordance with, the laws of the State of California. Lease Agreement LAA-8758 and this Second Amendment are subject to the provisions of the Los Angeles Administrative Code. Each Party represents and warrants that this Second 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 Second Amendment, or the application thereof to any persons or circumstances, shall be invalid or unenforceable, the remainder of this Second Amendment shall not be affected thereby, and each provision of this Second Amendment shall be valid and shall be enforceable to the fullest extent permitted by law.

Section 12. **Electronic Signatures.** This Second Amendment to Lease and any other document necessary for the consummation of the transaction contemplated by this Second Amendment to Lease 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 agreement, 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 Second Amendment to Lease 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 Second Amendment to Lease had been delivered that had been signed using a handwritten

signature. All parties to this Second Amendment to Lease (i) agree that an electronic signature, whether digital or encrypted, of a party to this Second Amendment to Lease 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 Second Amendment to Lease based on the foregoing forms of signature. If this Second Amendment to Lease 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 13. **Incorporation of Recitals.** City and Lessee each acknowledge the truth and accuracy of the Recitals set forth above, which by this reference are incorporated into this Second Amendment to Lease.

[Signatures on the following page.]

IN WITNESS WHEREOF, City has caused this Second Amendment to be executed on its behalf by the Chief Executive Officer (also referred to as Executive Director) or his or her designee, and Lessee has 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

Date: _____
By: Nichole A. Kelso
Deputy/Assistant City Attorney

CITY OF LOS ANGELES

By _____
Chief Executive Officer
Department of Airports

ATTEST:

By Laura L. Shook
Print Laura L. Shook
Senior Development
Title Legal Analyst

Denny's, Inc., a Florida corporation

By Stephen Dunn
Print _____
Stephen Dunn
Senior Vice President
Chief Global Development Officer
Title _____

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