

1 BY AUTHORITY

2 ORDINANCE NO. _____
3 SERIES OF 2011

COUNCIL BILL NO. _____
COMMITTEE OF REFERENCE:
4 BUSINESS, WORKFORCE & SUSTAINABILITY

5 A BILL

6 For an ordinance approving a proposed Support Facilities Lease Agreement between
7 the City and County of Denver and Swissport Cargo Services, LP concerning cargo
8 facilities at Denver International Airport.
9

10 **BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:**

11 **Section 1.** The proposed Support Facilities Lease Agreement between the City and
12 County of Denver and Swissport Cargo Services, LP in the words and figures contained and set
13 forth in that form of the Support Facilities Lease Agreement filed in the office of the Clerk and
14 Recorder, Ex-Officio Clerk of the City and County of Denver, on the 21st day of April, 2011, City
15 Clerk's Filing No. 11-320 is hereby approved.
16

17 COMMITTEE APPROVAL DATE: April 15, 2011

18 MAYOR-COUNCIL DATE: April 19, 2011

19 PASSED BY THE COUNCIL _____ 2011

20 _____ - PRESIDENT

21 APPROVED: _____ - MAYOR _____ 2011

22 ATTEST: _____ - CLERK AND RECORDER,
23 EX-OFFICIO CLERK OF THE
24 CITY AND COUNTY OF DENVER
25

26 NOTICE PUBLISHED IN THE DAILY JOURNAL _____ 2011 _____ 2011

27 PREPARED BY: Helen E. Raabe *[Signature]* DATE: April 21, 2011

28 Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the office of the
29 City Attorney. We find no irregularity as to form, and have no legal objection to the proposed
30 ordinance. The proposed ordinance is submitted to the City Council for approval pursuant to § 3.2.6
31 of the Charter.
32

33 David W. Broadwell, City Attorney

34 BY: _____ City Attorney

35 DATE: April 21, 2011

SUPPORT FACILITIES

LEASE AGREEMENT

Between

CITY AND COUNTY OF DENVER

And

SWISSPORT CARGO SERVICES, LP

At

DENVER INTERNATIONAL AIRPORT

11-320

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INSURANCE CERTIFICATE
DEMISED PREMISES
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ENVIRONMENTAL REQUIREMENTS

APPENDIX 1
APPENDIX 2
APPENDIX 3
APPENDIX 10

STANDARD FEDERAL ASSURANCES
STANDARD FEDERAL ASSURANCES
NONDISCRIMINATION IN AIRPORT EMPLOYMENT OPPORTUNITIES
DISADVANTAGED BUSINESS ENTERPRISES

**SUPPORT FACILITIES
LEASE AGREEMENT**

THIS SUPPORT FACILITIES LEASE AGREEMENT (the "Lease"), made and entered into as of this _____ day of _____ 2011, by and between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado, on behalf of its Department of Aviation hereinafter referred to as the "CITY", Party of the First Part, and **SWISSPORT CARGO SERVICES, LP** a limited partnership organized and existing under and by virtue of the laws of the State of California, and authorized to do business in the State of Colorado, hereinafter referred to as the "LESSEE", Party of the Second Part;

WITNESSETH

WHEREAS, the City owns and operates Denver International Airport (the "Airport") and has the power to grant rights and privileges with respect thereto, as hereinafter provided;

WHEREAS, the Lessee is engaged in the business of providing cargo handling services to the airlines; and

WHEREAS, the parties desire to enter into this Lease for the lease of certain premises and facilities at the Airport all as more fully hereinafter set forth;

NOW THEREFORE, for and in consideration of the mutual covenants and agreements herein contained, the City and the Lessee do hereby mutually undertake, promise and agree, each for itself and its successors, as follows:

**PART I
LEASE AND USE OF DEMISED PREMISES**

1.01 DEMISED PREMISES

The City, for and in consideration of the covenants and agreements hereinafter contained, hereby leases to the Lessee, subject to the conditions hereinafter expressed, those certain parcels of real property depicted on the attached drawing and legal description marked Exhibit B (which drawing and legal description are incorporated herein and made a part hereof by reference) and situated in the City and County of Denver, State of Colorado, hereinafter referred to as the "Demised Premises."

(A) Facilities Premises (Exclusive Use Premises)

The City hereby leases to the Lessee and the Lessee hereby agrees to lease from the City the Facilities Premises designated "Parcel No. 1," "Parcel No. 2," and "Parcel No. 3" designated on the attached drawing and legal description marked Exhibit B (which drawing and lease description are incorporated herein and made a part hereof by reference).

(B) Demised Premises

The Demised Premises shall consist of the following:

Ramp Lease Area: (Parcel No.1)	7,500 square feet, more or less
Air Cargo Building Space (Parcel No. 2)	5,768 square feet, more or less
Landside Lease Area: (Parcel No. 3)	5,350 square feet, more or less
Total Ground Lease Area	18,618 square feet, more or less

The City may, at its sole discretion, reassign Lessee's use and lease of space with thirty (30) days advance written notice, for the purpose of maximizing the highest and best use of the City's airport facilities and equipment. The City shall not be responsible for any costs whatsoever related to any such reassignment.

1.02 USE OF DEMISED PREMISES

The Lessee shall use the Demised Premises for the following purposes during the term of this Lease and for such other purposes as may be authorized in writing from time to time by the Manager, but for no other purpose or purposes:

a. The portion of the Demised Premises designated "Parcel No. 1" upon the aforementioned Exhibit B for the exclusive use of Lessee for ground equipment storage and circulation.

b. The Cargo Building portion of the Demised Premises designated "Parcel No. 2" upon the aforementioned Exhibit B for the exclusive use of Lessee as follows:

- (1) For the reception, handling, buildup, breakdown, sorting and distribution of air cargo transported or to be transported on aircraft owned or operated for and on behalf of Lufthansa German Airlines as well as other client carriers; and the receipt, handling and distribution of other documents and packages.
- (2) For the reception, storage and distribution of repair parts, supplies and other personal property owned by, or in the possession of Lessee for the performance of minor repairs to personal property of the Lessee or that of its aircraft operators.

- (3) For the training of personnel employed or to be employed by the Lessee in connection with its air cargo operations.
- (4) For normal office purposes associated with the conduct of an air cargo business by Lessee.
- (5) Vending machines may be permitted for the use of Lessee's employees pursuant to paragraph 7.04 herein.

c. The portion of the Demised Premises designated "Parcel No. 3" upon the aforementioned Exhibit B for the non-exclusive use of Lessee for loading and unloading of cargo and for parking of motor vehicles by employees, customers, patrons, contractors, agents and invitees of Lessee.

Notwithstanding any language to the contrary in this Agreement, it is expressly agreed and understood that the forgoing use is not a property right and shall not be assigned, subleased or otherwise alienated or hypothecated in any manner whatsoever by the Lessee.

1.03 PAYMENT OF FIXED AND VARIABLE RATES, FEES AND CHARGES

Rentals for the Demised Premises shall commence on the date of the commencement of the Term provided herein and shall be paid in twelve (12) equal monthly installments, and shall be due and payable, in advance, without notice on or before the first day of the then current month.

The Lessee agrees to pay rentals, rates, fees and charges established and fixed in accordance with cost-accounting concepts and ratemaking procedures established and adopted by the Manager.

In addition to the fixed rental rates, fees and charges provided herein, Lessee shall pay for other common use facilities, equipment, services and maintenance utilized by Lessee. Said common use rates, fees and charges shall be paid monthly, in advance, and adjusted, if necessary, every six (6) months, based upon the latest documented actual costs. Such services may include, but are not limited to, insurance, snow removal, law enforcement and/or security officers (as the case may be), industrial waste, sewer, and trash/refuse removal from the Demised Premises.

The City further reserves the right during the term and any extensions hereof for its Manager, subject to the requirements of any outstanding bond ordinances pertaining to the Airport, to alter, modify and change the rental rates, fees and charges in accordance with a schedule of rental rates, fees and charges adopted or modified from time to time by the Manager; provided, however, that such adopted or modified schedules of rentals, rates, fees and charges must be reasonable in relation to the cost of providing, operating and maintaining the particular facilities and services furnished to the Lessee.

PART II

PROVISIONS RELATING TO DEMISED PREMISES

2.01 MAINTENANCE OF DEMISED PREMISES

The Lessee agrees to provide at its own expense all utilities, equipment, trash and janitorial services, and maintenance of the Demised Premises, including, but not by way of limitation, snow removal of the Demised Premises; fire extinguishers; maintenance, repair and replacement of doors and windows; water; gas; electricity; light; heat; power and telephone service.

The Lessee shall be responsible for all maintenance and repair of the Demised Premises except for latent defects in the Demised Premises or repairs necessitated by the negligence or willful acts of the City, its employees, agents and contractors.

The Lessee further agrees that it will at all times maintain its Demised Premises in a neat, clean, safe and orderly condition, in keeping with the general decor of the area in which they are situated.

2.02 ALTERATIONS TO DEMISED PREMISES

The Lessee may, with the prior written approval of the City's Manager, which shall not be unreasonably withheld, at its own cost and expense, install in the Demised Premises any fixture or improvement or do or make alterations or do remodeling, germane to the use herein or hereafter granted. Any fixtures, improvements, equipment and other property installed, erected or placed by the Lessee in, on or about such Demised Premises shall be deemed to be personal and shall be and remain the property of the Lessee, except as otherwise provided herein, and the Lessee shall have the right at any time during the term hereof to remove any or all of its property, subject to the Lessee's obligation to repair damage, if any, resulting from such removal. All such fixtures, improvements equipment and other property shall be removed from said Demised Premises by the expiration or earlier termination of letting and the Demised Premises restored to the condition existing at the time of the letting, reasonable wear and tear excepted, unless the City, acting by and through its Manager, shall have advised the Lessee in writing at the time of such installation or not less than sixty (60) days in advance of such expiration or not less than thirty (30) days in advance of such earlier termination, of its willingness to accept title to such fixtures, improvements, equipment and other property in lieu of restoration of the Demised Premises. During such period and until such personal property is removed, Lessee shall pay to the City the full rental applicable to those Demised Premises, as determined by the City's Manager, which are directly associated with said personal property and which Demised Premises are not usable by others until said personal property is removed.

Said improvements, and all alterations thereof and additions thereto, shall in all respects be constructed in accordance with the ordinances and any applicable code or rule and regulation of the City and County of Denver, including the Airport Rules and Regulations

governing tenant construction specifications and other non-technical requirements in accordance with the attached Exhibit G. "Design Standards, Construction Procedures and Environmental Requirements," which is incorporated herein by reference, in accordance with the requirements of 42 U.S.C. § 12101 et seq., 49 U.S.C. § 41705, and 14 C.F.R. Part 382, and pursuant to any required building permit to be obtained from the City and according to the customary terms and conditions thereof.

The Lessee agrees that it shall include in its contracts with its general contractors covenants that require the construction contractor and its subcontractors of any tier to pay all workers, mechanics and laborers according to rates and classifications established under the federal Davis-Bacon Act and Section 20-76 of the Denver Revised Municipal Code, whichever is greater. The Lessee further agrees, if requested by the City, to fully comply with the procedural requirements of Section 20-76 of the Denver Revised Municipal Code by requiring its general contractors and their subcontractors of any and all tiers to submit to the City true and correct copies of the payroll records of all workers, laborers and mechanics employed. Copies of all contractor application for payment requests shall be provided to the City Auditor's Office.

2.03[RESERVED]

2.04 RIGHT TO ENTER AND MAKE REPAIRS

The City and its authorized officers, employees, agents, contractors, subcontractors and other representatives shall have the right (at such times as may be reasonable under the circumstances and with as little interruption to the Lessee's operations as is reasonably practicable) to enter upon the Demised Premises for the following purposes:

- (A) To inspect the Demised Premises at reasonable intervals during regular business hours (or at any time in case of emergency) to determine whether the Lessee has complied and is complying with the terms and conditions of this Lease with respect to the Demised Premises.
- (B) To perform maintenance and make repairs and replacements in any case where the Lessee is obligated to do so and has failed after reasonable notice to do so, in which event the Lessee shall reimburse the City for the reasonable cost thereof promptly upon demand.
- (C) To perform maintenance and make repairs and replacements in any case where the City is obligated to do so, and in any other case where the City, in its reasonable judgment, determines that it is necessary or desirable to do so in order to preserve the structural safety of the Demised Premises or the building in which they are located or to correct any condition likely to cause injuries or damages to persons or property.
- (D) In the exercise of the City's lawful police power, no such entry by or on

behalf of the City upon such Demised Premises leased to Lessee shall cause or constitute a termination of the letting thereof, or deemed to constitute an interference with the possession thereof by the Lessee.

2.05 ABANDONMENT OF DEMISED PREMISES

If the Lessee ceases to occupy and use a material portion of the Demised Premises for a continuous period of six (6) consecutive months or longer, the City, acting by and through its Manager, may consider such portion of the Demised Premises abandoned, and upon not less than thirty (30) days prior written notice to the Lessee, may terminate the lease for such portion of the Demised Premises.

2.06 DESTRUCTION OF PREMISES

If by reason of any cause, Lessee's Demised Premises, or any portion thereof, are damaged or destroyed by fire or other casualty, then:

- (A) The City, after consultation and agreement with Lessee, shall forthwith repair, reconstruct and restore the damaged or destroyed portions of the Demised Premises to substantially the same condition, character, utility and value as existed prior to such damage or destruction, unless the City and Lessee agree that no such reconstruction is necessary or that reconstruction to some other condition, character, utility and value is appropriate or desired; and
- (B) If such Demised Premises are damaged to such an extent that the Demised Premises are untenable, the City, acting by and through the Manager, will make all reasonable efforts to provide substantially equivalent substitute premises and facilities, and such substitute premises and facilities will be made available to Lessee, subject to Lessee's approval, consistent with those rentals, fees and charges for the use of the Airport established and modified from time to time by the City in accordance with this Lease.
- (C) For the portions of the Demised Premises that are untenable, Lessee shall receive a pro rata abatement of rentals, fees and charges applicable thereof from the date of such occurrence to the date upon which such portions of the Demised Premises are repaired and restored.

PART III GENERAL PROVISIONS

3.01 "MANAGER" DEFINED

As used in this Lease, the term "Manager" or "Manager of Aviation" shall mean the Manager of the City's Department of Aviation or Manager's successor in function having jurisdiction over the management, operation and control of the Airport.

3.02 MANAGER'S AUTHORIZED REPRESENTATIVE

Wherever reference is made herein to the "Manager's authorized representative", or words of similar import are used, such officer or employee of the City as shall be hereafter designated in writing by the Manager shall be such authorized representative of said Manager until notice otherwise is hereafter given to the Lessee.

3.03 AGREEMENTS WITH THE UNITED STATES

This Lease is subject and subordinate to the provisions of any agreements between the City and the United States relative to the operation or maintenance of the Airport, the execution of which has been or may be required as a condition precedent to the transfer of federal rights or property to the City for airport purposes, or to the expenditure of federal funds for the extension, expansion or development of the Airport, including the expenditure of federal funds for the development of the Airport in accordance with the provisions of the Airport and Airway Improvement Act of 1982, as amended. Appendices 1, 2, 3 and 10 are attached hereto and the provisions thereof are incorporated herein by reference.

3.04 BOND ORDINANCE

This Lease is in all respects subject and subordinate to any and all City bond ordinances applicable to the Airport and airport system and to any other bond ordinances which should amend, supplement or replace such bond ordinances.

The parties to this Lease acknowledge and agree that all property subject to this Lease which was financed by the net proceeds of tax-exempt bonds is owned by the City, and Lessee agrees not to take any action that would impair, or omit to take any action required to conform, the treatment of such property as owned by the City for purposes of Section 142(b) of the Internal Revenue Code of 1986, as amended. In particular, the Lessee agrees to make, and hereby makes, an irrevocable election (binding on itself and all successors in interest under this Lease) not to claim depreciation or an investment credit with respect to any property subject to this Lease which was financed by the net proceeds of tax-exempt bonds and shall execute such forms and take such other action as the City may request in order to implement such election.

3.05 LAWS, REGULATIONS AND AGREEMENTS TO BE OBSERVED

- (A) The Lessee shall not use or permit the use by parties authorized by the Lessee of the Demised Premises, or any other portion thereof, or any part of the Airport to which it is granted a right of use or occupancy by this Lease, for any purpose or use other than those authorized by this Lease, or hereafter authorized in writing by the Manager. No use shall be considered authorized by this Lease if such use would adversely affect the tax exempt status of Airport Revenue Bonds.
- (B) The Lessee shall comply with and shall cause its officers and employees and any other persons over whom it has control to comply with such reasonable rules and regulations governing the use of the Demised Premises and any other portion of the Airport as may from time to time be adopted and promulgated by the City for the management, operation and control of the Airport, including those pertaining to the operation of automobile and vehicular traffic and parking facilities thereon, and with such reasonable amendments, revisions, additions and extensions thereof as may from time to time be adopted and promulgated; provided, however, such rules and regulations shall not be inconsistent with the rights herein granted to the Lessee; provided, further, that nothing herein shall be considered to restrict the police power of the City.
- (C) It is agreed and understood by the parties hereto that disputes arising under or related to this Lease shall be resolved by administrative hearing which shall be conducted in accordance with the procedures set forth in Section 5-17, Revised Municipal Code of the City and County of Denver. The parties hereto agree that the Manager's determination resulting from said administrative hearing shall be final, subject only to Lessee's right to appeal the determination under Colorado Rule of Civil Procedure 106.

PART IV TERM OF THE LEASE

4.01 TERM OF LEASE

The term of this Lease shall commence on January 1, 2011 and shall terminate on December 31, 2016; unless sooner terminated by either party. Either party may terminate this Lease upon thirty (30) days written notice to the other party.

4.02 [RESERVED]

4.03 [RESERVED]

4.04[RESERVED]

4.05SURRENDER AND HOLDING OVER

The Lessee covenants that at the expiration of the period for which the Demised Premises are leased to it, or at the earlier termination of the letting thereof, it will quit and surrender such Demised Premises in good state and condition, reasonable wear and tear, acts of God or other casualty and damage due to the negligent or willful act or omission of City excepted, and, except as otherwise provided in Section 2.02, the Lessee shall forthwith remove therefrom all equipment, trade fixtures and personal property belonging to it. The City shall have the right on such termination to enter upon and take possession of such Demised Premises with or without process of law, without liability for trespass.

Should the Lessee hold over the use of or continue to occupy any portion of such Demised Premises after the expiration of the term of this Lease, such holding over shall be deemed merely a tenancy from month to month. Rent, fees and charges for each month of such holding over shall be paid as provided herein and in a sum equal to the monthly rental required for the month prior to the end of the term hereof or as reestablished as provided for herein. All conditions as herein or hereafter provided shall remain the same, except for term.

4.06TERMINATION OF HOLDOVER

If the Lessee holds over pursuant to Section 4.05 hereof, either party may, with or without cause, cancel or terminate said tenancy by giving not less than thirty (30) days prior written notice to the other party. Said notice shall set out the date of such cancellation and termination.

PART V PERFORMANCE BOND, INDEMNIFICATION AND INSURANCE

5.01PERFORMANCE BOND

Except as otherwise provided by the City's airport rules and regulations as they may be adopted or amended from time to time, upon execution of this Lease, the Lessee shall deliver to the Manager for the City and County of Denver, and shall maintain in effect at all times during the term of this Lease, including a period of six (6) months after expiration (or earlier termination of the letting of the Demised Premises hereunder) of said Lease, a valid corporate Performance Bond, or an irrevocable Letter of Credit, in an amount equal to three (3) months rental and other charges payable hereunder, payable without condition to the City and County of Denver, with surety acceptable to and approved by the City's Manager, which bond or irrevocable letter of credit shall guarantee to the City full and faithful performance of all of the terms and provisions of this Lease to be performed by the Lessee, and as said Lease may be amended,

supplemented or extended.

Notwithstanding the foregoing, if at any time during the term hereof, said Manager reasonably deems the amount of the surety insufficient to properly protect the City from loss hereunder because the Lessee is or has been in arrears with respect to such obligations or because the Lessee has, in the reasonable opinion of the Manager, violated other terms of this Lease, the Lessee agrees that it will, after receipt of notice, increase the surety to an amount required by said Manager; provided however, the percentage increase in the amount of surety shall not exceed the annual percentage increase that has occurred with respect to the Lessee's rental and fee rates in effect under this Lease.

5.02 INDEMNIFICATION

The Lessee agrees to indemnify and save harmless the City, its officers, agents and employees, from and against (A) any and all loss of or damage to property, or injuries to, or death of, any person or persons, including property and officers, employees and agents of the City; and (B) all claims, damages, suits, costs, expense, penalties, liability, actions or proceedings of any kind or nature whatsoever, of or by anyone whomsoever, which, with respect to clauses (A) and (B) hereof, in any way result from, or arise out, Lessee's operations in connection herewith, or its use or occupancy of any portion of the Airport and the acts, omissions, or wrongful conduct of officers, employees, agents, contractors or subcontractors of the Lessee, including without limitation, the provision or failure to provide security as herein required and the use, disposal, generation, transportation or release of pollutants, including but not limited to oil, glycol, toxic or hazardous materials at the Airport by the Lessee, its contractors, employees, agents, customers, or anyone claiming or acting by or through the Lessee.

Lessee further agrees that if a prohibited incursion into the Air Operations Area occurs, or the safety or security of the Air Operations Area, the Airfield, or other sterile area safety or security is breached by or due to the negligence or willful act or omission of any of Lessee's employees, agents, or contractors and such incursion or breach results in a civil penalty action being brought against the City by the U.S. Government, Lessee agrees to reimburse the City for all expenses, including attorney fees, incurred by the City in defending against the civil penalty action and for any civil penalty or settlement amount paid by the City as a result of such incursion or breach of airfield or sterile area security. The City shall notify Lessee of any allegation, investigation, or proposed or actual civil penalty sought by the U.S. Government for such incursion or breach. Civil penalties and settlement and associated expenses reimbursable under this Paragraph include but are not limited to those paid or incurred as a result of violation of Transportation Security Administration (TSA) regulations, including 49 CFR, Subtitle B, Chapter XII, as it may be amended, or any similar law or regulations intended to replace or compliment such regulations.

Without limitation, the terms of this indemnity include an agreement by Lessee to indemnify, defend and hold harmless the City from and against any and all expense, loss, claim, damage, or liability suffered by City by reason of Lessee's breach of any environmental requirement existing under federal, state or local law, regulation, order or other legal requirement

in connection with any of Lessee's acts, omissions, operations or uses of property relating to this Agreement, or such a breach by the act or omission of any of Lessee's officers, employees, agents, or invitees, whether direct or indirect, or foreseen or unforeseen, including (but not limited to) all cleanup and remedial costs actually and reasonably incurred to satisfy any applicable remediation obligation required by federal, state or local law; and reasonable legal fees and costs incurred by City in connection with enforcement of this provision, but excluding damages solely relating to diminution in value of City real property.

Provided however, the City agrees that (I) the Lessee need not save harmless or indemnify the City against damage to or loss of property, or injury to or death of persons, caused by the negligence or willful acts of the City, its officers, employees, contractors and agents, and (II) the City will give prompt written notice to the Lessee of any claim or suit and the Lessee shall have the right to assume the defense and compromise or settle the same to the extent of its own interest. Provided, however, the indemnity provided for herein shall apply only to the extent the City is not reimbursed out of insurance proceeds.

5.03 INSURANCE

At all time during the term of this Lease, unless otherwise required by federal or state governmental law or regulation, the Lessee is required and agrees, at its own cost and expense, to provide and keep in force for the benefit of the Lessee and the City, a policy, or policies, of insurance as established in Exhibit A, the Insurance Certificate.

Such insurance policy, or policies, and certificates of insurance evidencing the existence thereof shall cover all operations of the Lessee at the Airport (except the coverage required and provided pursuant to federal or state law or regulation), and shall be with a company acceptable to and approved by the Manager and City Attorney, and shall insure the Lessee's agreement to indemnify the City as set forth in the indemnification provisions hereof. The amount of insurance required hereunder shall in no way limit the liability of the Lessee as provided in Section 5.02 of this Lease. The City shall not be named insured of said insurance. Each such policy and certificate shall contain a special endorsement stating "This policy will not be materially changed or altered or canceled without first giving thirty (30) days written notice by certified mail, return receipt requested, to the Manager of Aviation, Denver International Airport, AOB - 9th Floor, 8500 Peña Boulevard, Denver, Colorado 80249-6340." All such policies of insurance, or copies thereof, shall be made available for review by the City at such times and places as required by the Manager. Certificates of insurance evidencing the existence of said policies shall be delivered to and left in the possession of said Manager.

5.04 LIENS

Except to the extent inconsistent with other provisions of this Lease, the Lessee covenants and agrees to pay promptly all lawful taxes, excises, license fees and permit fees applicable to its operations at the Airport and to take out and keep current all licenses, municipal, state or federal, required for the conduct of its business at and upon said Airport, and further agrees not to permit any of said taxes, excises or licenses fees to become delinquent. The Lessee

further covenants and agrees at all times to maintain adequate Worker's Compensation Insurance in accordance with any present or future Colorado law with an authorized insurance company, or through the Colorado State Compensation Insurance Fund, or through an authorized self-insurance plan approved by the State of Colorado insuring the payment of compensation to all its employees. The Lessee also covenants and agrees not to permit any mechanic's or materialman's or any other lien to be foreclosed upon the Airport and improvements thereto or thereon, or any part or parcel thereof, by reason of any work or labor performed or materials furnished at the request of the Lessee by any mechanic or materialman. The Lessee further covenants and agrees to pay promptly when due all bills, debts and obligations incurred by it in connection with its operation of said business on the Airport, and not to permit the same to become delinquent and to suffer no lien, mortgage, judgment or execution to be filed against said premises or improvements thereon which will in any way impair the rights of the City under this Lease. The Lessee shall have the right on giving the City prior written notice to contest any such mechanic's, materialman's or any other lien, and the Lessee shall not, pending the termination of such contest, be obligated to pay, remove or otherwise discharge such lien or claim. The Lessee agrees to indemnify and save harmless the City from any loss as a result of the Lessee's action as aforesaid.

If the Lessee shall in good faith proceed to contest any such tax, assessment or other public charge, or the validity thereof, by proper legal proceedings which shall operate to prevent the collection thereof or to prevent the appointment of a receiver because of nonpayment of any such taxes, assessments or other public charges, the Lessee shall not be required to pay, discharge or remove any such tax, assessment or other public charge so long as such proceeding is pending and undisposed of; provided, however, that the Lessee, not less than five (5) days before any such tax, assessment or charge shall become delinquent, shall give notice to the City of the Lessee's intention to contest its validity. If such notice is so given by the Lessee to the City and such contest is conducted in good faith by the Lessee, the City shall not, pending the termination of such legal proceedings, pay, remove or discharge such tax, assessment or other charge.

5.05 LOSS OR DAMAGE TO PROPERTY

The City shall not be liable for any loss of property by theft or burglary from the Airport or for any damage to person or property on said Airport resulting from airport operations including but not limited to operating the elevators or electric lighting, or wind, water, rain or snow, which may come into or issue or flow from any part of said Airport, or from the pipes, plumbing, wiring, gas or sprinklers thereof or any other cause whatsoever, and the Lessee hereby covenants and agrees to make no claim for any such loss or damage at any time. Lessee shall not be responsible for loss or damage to property caused by latent defects in the Demised Premises.

5.06 FORCE MAJEURE

Neither the City nor the Lessee shall be deemed to be in breach of this Lease by reason of failure to perform any of its obligations under this Lease if, while and to the extent that such failure is due to embargoes, shortages of materials, acts of God, acts of the public enemy, acts of superior governmental authority, sabotage, strikes, boycotts, labor disputes, weather

conditions, riots, rebellion and any circumstances for which it is not responsible and which are not within its reasonable control. This provision shall not apply to failures by the Lessee to pay rents, fees or other charges, or to make any other money payment whatsoever required by this Lease, except in those cases where provision is made in this Lease for the abatement of such rents, fees, charges or payments under such circumstances.

PART VI QUIET ENJOYMENT; INCONVENIENCES DURING CONSTRUCTION

6.01 COVENANT OF QUIET ENJOYMENT

Upon the payment by Lessee of all rentals, rates, fees and charges properly assessed to Lessee and the performance of the covenants and agreements on the part of Lessee to be performed hereunder, Lessee shall peacefully have and enjoy the premises, appurtenances, facilities, licenses and privileges granted herein; provided, however, it is recognized that certain temporary inconveniences may occur during construction.

6.02 INCONVENIENCES DURING CONSTRUCTION

The Lessee recognizes that from time to time during the term of this Lease it will be necessary for the City to initiate and carry forward extensive programs of construction, reconstruction, expansion, relocation, maintenance and repair in order that the Airport and its facilities may be suitable for the volume and character of air traffic and flight activity which will require accommodation, and that such construction, reconstruction, expansion, relocation, maintenance and repair may inconvenience the Lessee in its operations at the Airport. The Lessee agrees that no liability shall attach to the City, its officers, agents, employees, contractors, subcontractors and representatives by reason of minor inconvenience or minor discomfort as a result of such action and, for and in further consideration of the lease of the Demised Premises, the Lessee waives any right to claim damages or other consideration for such minor inconvenience or minor discomfort.

PART VII MISCELLANEOUS PROVISIONS

7.01 LEASE BINDING

This Lease shall be binding on and extend to any successors of the respective parties hereto.

7.02 PARAGRAPH HEADINGS AND INDEX

The paragraph or Section headings and index or table of contents contained herein are for convenience and reference only and are not intended to define or limit the scope of any provision of this Lease.

7.03 SIGNS

The Lessee agrees that no signs or advertising displays shall be painted on or erected in any manner upon its Demised Premises without the prior written approval of the City's Manager or the Manager's authorized representative; and that signs identifying the Lessee will conform to reasonable standards established by the Manager, or the Manager's authorized representative, with respect to type, size, design, location and content.

7.04 VENDING MACHINES

No telecommunication devices, personal computers, amusement or vending machines or other machines operated by coins or tokens, cards, paper currency, or any imaging or voice process, and no cash machines or pay telephones shall be installed or maintained in or upon the Lessee's Demised Premises except with the permission of the Lessee and the Manager and the number, type, kind and locations thereof shall be in the discretion of the Manager and the Lessee. This prohibition includes, but not by way of limitation, sales from vending machines of such items as cigarettes, candy, maps, coffee, soft drinks, newspapers, stamps and insurance policies; telephones; dispensation of cash, money orders and checks; and operation of mechanical or electronic game devices, electronic video games, entertainment devices, phone cards and internet access. The Lessee shall not permit the installation of any such machines, except by a concessionaire authorized by the Manager and subject to and in accordance with the concessionaire's agreement with the City. If and when the Lessee permits the installation of vending machines in its Demised Premises, the Lessee shall make no charge to the concessionaire for the privilege of installing or maintaining such machines, except that if the Lessee provides the electric current or water to the concessionaire a reasonable charge may be made to cover the cost of the electricity and water consumed, and all fees paid by the concessionaire for the privilege shall be the property of the City.

7.05 PURCHASES BY LESSEE

Property, services and materials (except as otherwise provided in this Lease) may be purchased or otherwise obtained by the Lessee from any person or corporation of its choice and no unjust, or unreasonable discriminatory limitations, restrictions, charges or conditions shall be imposed by the City, directly or indirectly, against the Lessee or its suppliers for the privilege of purchasing, selling, using, storing, withdrawing, handling, consuming, loading, unloading or delivering any personal property of the Lessee, by the Lessee or its suppliers, or for the privilege of transporting such personal property to, from or on the Airport.

7.06 NON-DISCRIMINATION

The Lessee, for itself, its successors and assigns, as a part of the consideration hereof does hereby agree as follows:

- (A) As more fully set forth in Appendices No. 1, 2 and 3 attached hereto and incorporated herein by reference, if facilities are constructed, maintained

or otherwise operated on the Demised Premises for purposes in which federal financial assistance is extended under a Department of Transportation program or activity, or for another purpose involving the provision of a similar service or benefit, the Lessee shall maintain and operate such facilities and services in compliance with all requirements of 49 C.F.R. Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964, and as said regulations may be amended.

- (B) The Lessee will in all of its operations and activities in and at the Airport comply with all requirements of the Air Carrier Access Act, 49 U.S.C. § 41705, and regulations implementing such Act at 14 C.F.R. Part 382, and the Americans with Disabilities Act, 42 U.S.C. § 12101 et seq. and all regulations implementing such Act.

7.07 NO PERSONAL LIABILITY

No director, officer or employee of either party shall be held personally liable under this Lease or because of its execution or attempted execution.

7.08 NOTICES

All notices required to be given to the City hereunder shall be in writing and shall be sent by certified mail, return receipt requested, addressed to:

Manager, Denver International Airport
AOB - 9th Floor
8500 Peña Boulevard
Denver, Colorado 80249-6340
and
Property Management Section
Manager, Airlines
Denver International Airport
8500 Pena Blvd., AOB, 9th Floor
Denver, CO 80249-6340

all notices required to be given to the Lessee hereunder shall be in writing and shall be sent by certified mail, return receipt requested, addressed to:

Swissport Cargo Services, LP
618 Access Road
Chicago, IL 60666

Contact: Frank Clemente – Vice President Cargo Central Region

provided that the parties or either of them, may designate in writing from time to time the addresses of substitute or supplementary persons in connection with said notices. The effective date of service of any such notice shall be the date such notice is mailed to the Lessee or said Manager.

7.09 PLACE AND MANNER OF PAYMENTS

In all cases where the Lessee is required by this Lease to pay any rentals, fees or other charges or to make other payments to the City, such payments shall be due and payable monthly, in advance, without notice and shall be made at the office of the Airport Revenue Fund, Denver International Airport, P. O. Box 492065, Denver, Colorado 80249-2065 or at such other place in the City and County of Denver as the City may hereafter designate by notice in writing to the Lessee, and shall be made in legal tender of the United States. Any check shall be received by the City subject to collection, and the Lessee agrees to pay any bank charges for the collection of any such check.

Any payment not made to the City or Lessee when due shall accrue interest at the rate of 18% per annum commencing five (5) business days after such due date.

7.10 SEVERABILITY

In the event any covenant, condition or provision contained in this Lease is held by any court of competent jurisdiction to be invalid, the invalidity of any such covenant, condition or provision shall in no way affect any other covenant, condition or provision herein contained if the invalidity of any such covenant, condition or provision does not materially prejudice either party hereto in its respective rights and obligations contained in the valid covenants, conditions or provisions in this Lease.

7.11 SECURITY

It is understood and agreed by the Lessee that in addition to the Lessee's responsibilities to maintain the Demised Premises as provided herein, it shall take reasonable security precautions to maintain the Demised Premises in a manner as to keep them secure from unauthorized intrusion and shall with respect to any area of the premises opening to an air operations area of the Airport provide for an adequate security system designed to prevent unauthorized persons or vehicles from entering such air operations area. An "air operations area" is defined to mean any area of the Airport used or intended to be used for landing, takeoff or surface maneuvering of aircraft. An "adequate security system" is further defined as providing for security at a standard no less than required and set out in Transportation Security Administration (TSA) regulations, including 49 C.F.R., Subtitle B, Chapter XII, as it may be amended, or any similar law or regulations intended to replace or compliment such regulations.

It is further understood and agreed by the Lessee that at any time during the term hereof when requested in writing by the Manager, or his authorized representative, the Lessee shall submit to the said Manager the security plans that are to be used and are being used by the Lessee on any or all of the Demised Premises.

7.12 WAIVERS

No waiver of default by either party of any of the terms, covenants or conditions hereof to be performed, kept and observed by the Lessee or the City shall be construed, or operate, as a waiver of such term, covenant, or condition or of any subsequent breach of the same or any other term, covenant or condition herein contained to be performed, kept and observed by the Lessee or the City.

The subsequent acceptance of rent hereunder by the City shall not be deemed to be a waiver of any preceding breach by the Lessee of any term, covenant or condition of this Lease other than the failure of the Lessee to pay the particular rental so accepted, regardless of the City's knowledge of such preceding breach at the time of acceptance of such rent.

7.13 LESSEE BOOKS AND RECORDS

The Lessee agrees that the Auditor of the City or any of the Auditor's duly authorized representatives, until the expiration of three (3) years after the termination of this Lease, shall have the right, at any reasonable time and at its own expense, to have access to and the right to examine any books, documents, papers and records of the Lessee pertinent to this Lease.

7.14 CITY SMOKING POLICY

The Lessee and its officers, agents and employees shall cooperate and comply with the provisions of Denver Executive Order No. 99, or any successor executive order prohibiting smoking in all indoor buildings and facilities. Lessee agrees that it will take reasonable actions to prohibit smoking by its employees and the public in the Demised Premises except in specially designated areas.

7.15 USE, POSSESSION OR SALE OF ALCOHOL OR DRUGS

The Lessee and its officers, agents and employees shall cooperate and comply with the provisions of Denver Executive Order No. 94 and Attachment A thereto, or any successor executive order concerning the use, possession or sale of alcohol or drugs.

7.16 THIRD PARTIES

This Lease does not, and shall not be deemed or construed to, confer upon or grant to any third party or parties (excepting any successor to the City) any right to claim damages or to

bring any suit, action or other proceeding against either the City or the Lessee because of any breach hereof or because of any of the terms, covenants, agreements and conditions herein contained.

7.17[RESERVED]

7.18MASTER PLAN

Lessee agrees that no liability shall attach to the City, its officers, agents and employees by reason of any efforts or action toward implementation of any present or future master layout plan for the Airport and waives any right to claim damages or other consideration arising therefrom.

7.19UNITED STATES DEPARTMENT OF TRANSPORTATION PROVISIONS

This Lease is subject and subordinate to the terms, reservations, restrictions and conditions of any existing or future agreements between the City and the United States, the execution of which has been or may be required as a condition precedent to the transfer of federal rights or property to the City for airport purposes, and the expenditure of federal funds for the extension, expansion or development of the Denver Airport System including the provisions of Appendices 1, 2, 3 and 10 which are incorporated herein by reference.

7.20CITY NON-DISCRIMINATION

In connection with the performance of work under this Lease, the Lessee agrees not to fail or refuse to hire, nor to discharge, promote or demote, nor to otherwise discriminate in matters of compensation, terms, conditions or privileges of employment against any person otherwise qualified, solely because of race, color, religion, national origin, gender, age, military status, sexual orientation, marital status, or physical or mental disability; and the Lessee further agrees to insert the foregoing provision in all subcontracts hereunder.

7.21ENTIRE LEASE

The provisions contained in this Lease constitute the entire agreement and understanding between the parties with respect to the subject matter thereof, and that all representations made by any officer, agent or employee of the respective parties, unless included herein, are null and void and of no effect. This Lease cannot be changed or terminated orally. No alterations, amendments, changes or modification, unless expressly reserved to the Manager herein, shall be valid unless executed by an instrument in writing by both parties hereto with the same formality as this Lease.

7.22SALE OF FOOD AND BEVERAGES

The Lessee shall not sell, or permit the sale of food, food products or beverages

(both alcoholic and non-alcoholic) upon the Demised Premises occupied by it except by a concessionaire to whom the City has granted the right to provide such services in said Demised Premises and except that, with respect to its Demised Premises, Lessee may sell, or permit the sale of, such items on its own behalf or by a concessionaire selected by Lessee. Lessee agrees to pay the same rates, fees and charges that would be applicable to an Airport concessionaire with respect to the sale of such products.

7.23 CONDITION; FINAL APPROVAL

This Lease is expressly subject to, and shall not be or become effective or binding on the City until approved by Denver City Council and fully executed by all signatories of the City and a fully executed copy has been delivered to Lessee.

IN WITNESS WHEREOF, the parties hereto have caused this Support Facilities Lease Agreement to be executed as of the day and year first above written.

ATTEST:

CITY AND COUNTY OF DENVER

By _____
STEPHANIE Y. O'MALLEY,
Clerk and Recorder, Ex-Officio Clerk
of the City and County of Denver

By _____
Mayor

APPROVED AS TO FORM:
DAVID R. FINE, Attorney
for the City and County of Denver

RECOMMENDED AND APPROVED:

By _____
Manager of Aviation

By _____
Assistant City Attorney

REGISTERED AND COUNTERSIGNED:

By Manager of Finance also

By _____
Auditor
AR15004

PARTY OF THE FIRST PART

ATTEST:

ON BEHALF OF GENERAL PARTNER
SWISSPORT CARGO SERVICES, L.P.

By _____
Secretary

SWISSPORT CARGO SERVICES, L.P.

By _____
Title VICE PRESIDENT

PARTY OF THE SECOND PART

**CITY AND COUNTY OF DENVER
DEPARTMENT OF AVIATION
CERTIFICATE OF INSURANCE FOR LEASE AGREEMENTS (02/07/01)**

☐ Original COI

☐ Advice of Renewal

☐ Change

Party to Whom this Certificate is Issued:

CITY AND COUNTY OF DENVER

Manager of Aviation

8500 Peña Boulevard, Room 8810

Denver CO 80249

Name and Address of Insured:

CONTRACT NUMBER & NAME TO WHICH THIS INSURANCE APPLIES:

I. MANDATORY COVERAGE

WC-1 Colorado Workers' Compensation and Employer Liability Coverage

Coverage	Minimum Limits of Liability (In Thousands)	Policy No. & Company	Policy Period
Colorado Workers' Compensation Statutory Limits and Employer Liability	Employer's Liability Limits \$100, \$500, \$100		

Any Policy issued under this section must contain, include or provide for the following:

1. All States Coverage or Colorado listed as a covered state for the Workers' Compensation
2. Waiver of Subrogation and Rights of Recovery against the City and County of Denver (the "City"), its officers, officials and employees.

CGL-4 Commercial General Liability Coverage

Coverage	Minimum Limits of Liability (In Thousands)	Policy No. & Company	Policy Period
Commercial General Liability (coverage at least as broad as that provided by ISO form CG0001 or equivalent)	Each Occurrence: \$1,000 General Aggregate Limit: \$2,000 Products-Completed Operations Aggregate Limit: \$1,000 Personal & Advertising Injury: \$1,000 Fire Damage Legal - Any one fire \$50 (\$300 if a City facility is leased)		

Any Policy issued under this section must contain, include or provide for the following:

1. City, its officers, officials and employees as additional insureds, per ISO form CG2026 or CG 2011 or CG 2024, if City is lessor only or equivalent for the policy period.
2. Coverage for defense costs of additional insureds outside the limits of insurance, per CG 0001 or equivalent.
3. Contractual Liability.
4. Waiver of subrogation rights and rights of recovery, per ISO form CG2404 or equivalent.
5. If this event involves racing or demolition derby/rodeo then Exclusion H must be deleted.
6. If liquor may be sold, then Liquor Legal Liability, with City as additional insured, is required.

BAL-2. Business Automobile Liability Coverage

Coverage	Minimum Limits of Liability (In Thousands)	Policy No. & Company	Policy Period
Business Automobile Liability (coverage at least as broad as ISO form CA 0001)	Combined Single Limit \$1,000		

Any Policy issued under this section must contain, include or provide for the following:

1. Symbol 1, coverage for any auto. If no owned autos, then Symbols 8 & 9 (Hired and Non-Owned) are acceptable.
2. If this contract involves transport of hazardous materials, then the Broadened Pollution Endorsement, per ISO form CA9948 or equivalent and MCS 90, are required.
3. If Insured's contract involves racing or demolition rodeo/derby, then Exclusion 13 must be deleted.

II. ADDITIONAL COVERAGE

(Coverage is required only when City has checked the box to the left of each coverage section)

☒ **UL-7 Umbrella Liability**

Coverage	Minimum Limits of Liability (In Thousands)	Policy No. & Company	Policy Period
Umbrella Liability	Each occurrence and Aggregate \$9,000 *		

Any Policy issued under this section must contain, include or provide for the following:

1. City, its officers, officials and employees as additional insureds.
- *2. If operations include unescorted airside access at DIA then a \$9 Million Umbrella is required.

☒ **PL-1. Property Insurance/Special Cause of Loss Form, Replacement Cost**

Coverage	Minimum Limits of Liability	Policy No. & Company	Policy Period
<input checked="" type="checkbox"/> PL-1-A. Property Insurance on the Grantee/Borrower's real and/or personal property, Special Cause of Loss Form	Amount of the Replacement Cost on Grantee/Borrower's real and/or personal Property Replacement costs of the City property in tenant or contractor's care, custody, control. Or at a minimum, \$ 50,000		

Any policy issued under this section must contain, include or provide for the following:

1. Replacement Cost, Agreed Value endorsements.
2. City and County of Denver as Loss Payee/Mortgagee, as applicable on the policy.
3. Waiver of Subrogation and Rights of Recovery against the City and County of Denver.
3. Deductible amount greater than \$5,000 must be approved by the City's Risk Administrator.

III. ADDITIONAL CONDITIONS

It is understood and agreed, for the benefit of the City, that the following additional conditions shall apply to all coverage specified herein:

1. All coverage provided herein shall be primary and any insurance maintained by the City shall be considered excess as per City's other insurance clause ISO CG 00 55.
2. With the exception of professional liability, student accident coverage and auto coverage, a Waiver of Subrogation and Rights of Recovery against the City, its officers, officials and employees is required for each coverage period.
3. The City shall have the right to verify or confirm, at any time, all coverage, information or representations contained herein, and the insured and its undersigned agent shall promptly and fully cooperate in any such audit the City may elect to undertake.
4. Advice of renewal is required.
5. All insurance companies issuing policies hereunder must carry at least an A VIII rating from A.M. Best Company or obtain a written waiver of this requirement from the City's Risk Administrator.
6. Compliance with coverage requirement by equivalent herein must be approved in writing by the City's Risk Administrator prior to contract execution.
7. No changes, modifications or interlineations on this Certificate of Insurance shall be allowed without the review and approval of the Risk Administrator prior to contract execution.

IV. NOTICE OF CANCELLATION

It is understood and agreed that should any Policy issued hereunder be cancelled or non-renewed before the expiration date thereof, the issuing company or its authorized Agent shall mail to the address shown above, by mail, return receipt requested, forty-five (45) days prior written notice ten (10) days for non-payment of premium, referencing the contract/project number set forth herein.

V. CERTIFICATE VERIFICATION BY AUTHORIZED INSURANCE AGENT

STATE OF _____)
COUNTY OF _____) SS:

I, _____, being first duly sworn, state and aver, under penalty of law, that I am familiar with the insurance coverage maintained by the Insured, _____; that I have reviewed the coverage requirements set forth in the foregoing Certificate of Insurance; that I have completed the foregoing Certificate and; that the information contained in the Certificate is true and correct to the best of my knowledge and the referenced policies are in full force and effect. I further state and aver, under penalty of law, that I am authorized by the identified companies to place the coverage specified in the Certificate and I understand that the City will rely on the representations I have provided.

This information is provided for City and County of Denver Contract Name _____ and Contract No. _____.

By: _____ Agency: _____
(Signature)

Title: _____

Producer License Number: _____ State of : _____

Telephone number with Area Code: _____

Subscribed and sworn to before me by _____, on the _____ day of _____.

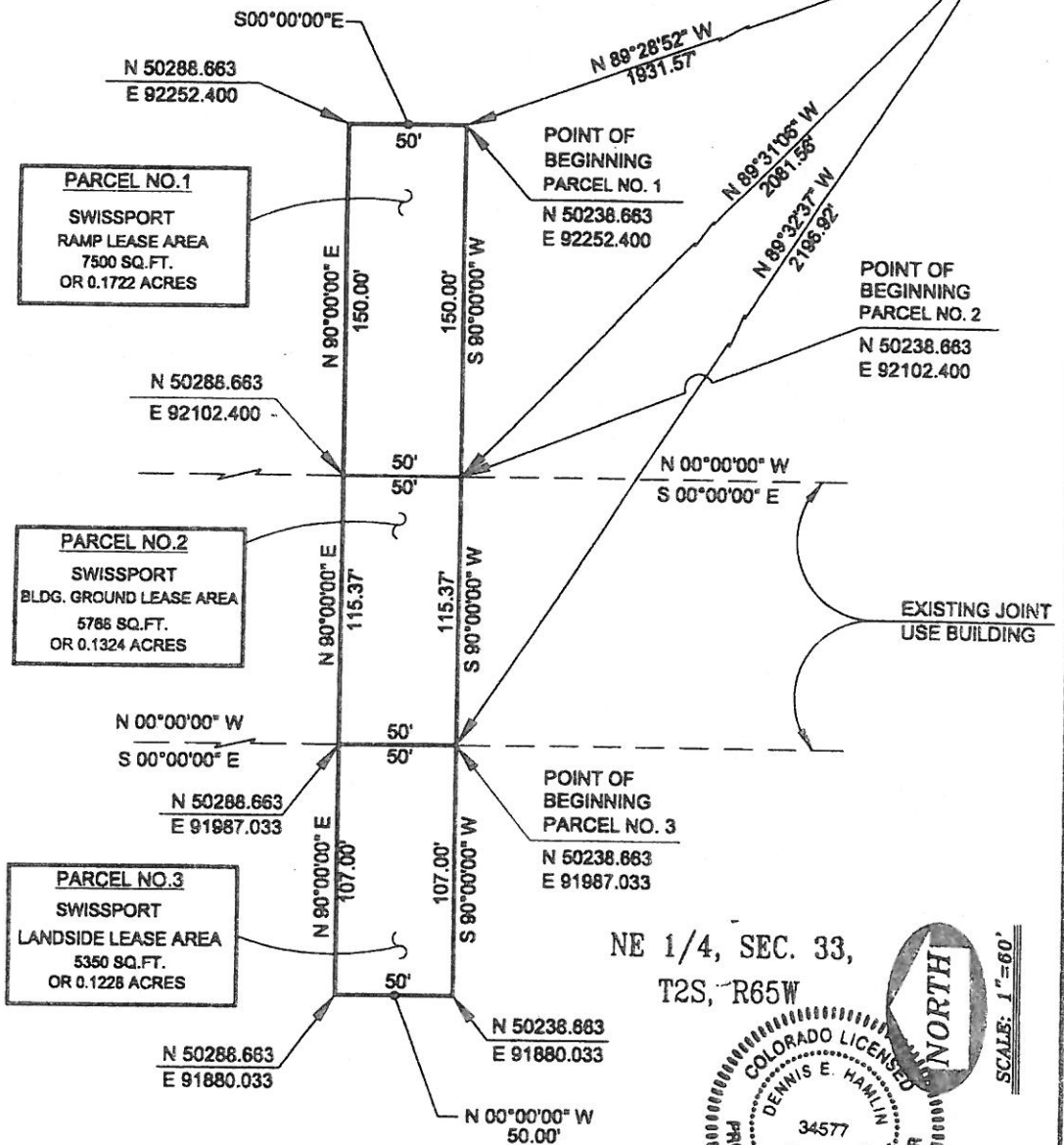
WITNESS MY HAND AND OFFICIAL SEAL.

My Commission expires: _____.

Notary Public

POINT OF COMMENCEMENT
East Quarter Corner, Section 33,
Township 2 South, Range 65 West,
6th Principal Meridian, being a
3 1/4" Alum. Cap, L.S.# 14592
N50221.168, E94183.888

East Line, Northeast Quarter, Section 33, Township 2 South,
Range 65 West, 6th Principal Meridian.....N00°28'05"W



NE 1/4, SEC. 33,
T2S, R65W

4, SEC. 33,
S, R65W

COLORADO LICENSED
DENNIS E. HANLIN
34577
D. E. Hanlin
12-2-18
PROFESSIONAL LAND SURVEYOR

NORTH

SCALE: 1"=60'

Revision done on 12-2-10, to show Swissport leasing this space, as of January 1, 2011. Space was previously leased to Southwest. *Don Hall*

Note: This does not represent a monumented land survey. Nor does it represent a search for easements or Rights-of-Way of record. It is intended only to depict the attached description.

The Basis of Bearings and Survey Coordinate System values are taken from the Denver International Airport (DIA) grid control map, which may be reviewed at the DIA Engineering Section, Survey Office, 27301-E.71st Ave., Unit 4, Denver, Co. 80249.

NO.	DATE	NAME	CITY AND COUNTY OF DENVER DEPARTMENT OF AVIATION DENVER INTERNATIONAL AIRPORT		
			SWISSPORT		
			EXHIBIT B		
REVISED	DATE 12/02/10	SCALE 1" = 60'	DRAWN BY DESIGNED BY CHECKED BY	SJC JRC JRC	SHEET NO. 1 OF 1 SHEETS
			DRAWING NO. 14111000-0000		

Michael H. Steffens, P.E. Date
Manager of Construction

EXHIBIT G

Design Standards, Construction Procedures and Environmental Requirements

Section 1. Design Standards. The Airline agrees to utilize and comply with the Denver International Airport Design Standards Manuals for design of the Facilities. The Airline further agrees to design, construct, and operate the Facilities in accordance with the Denver International Airport Tenant Development Guidelines and the Denver International Airport Rules and Regulations, as they may be established or amended from time to time, and any other applicable design, construction, operation, and maintenance standards.

All civil design drawings submitted by the Airline to the City shall be provided and submitted in the following form:

CADD Submittal Requirements: AutoCAD Rel. 2004 .dwg format CADD files that match the Airline's hardcopy drawings must be submitted via CD-ROM. All drawings must represent precision input and follow industry standard CADD practices. The drawings must reflect true design dimensioning and must NOT be graphic representations of the design. All site, civil and utility drawings MUST be produced using units in feet and the Denver International Airport Grid Coordinate System. The Denver International Airport project manager must approve submittal and may require adherence to the requirements set forth in Denver International Airport design standards.

Approval of the City shall extend to and include consideration of architectural and aesthetic matters and the City reserves the right to reject any designs submitted and to require the Airline to resubmit designs and layout proposals until they meet with the City's approval.

In the event of disapproval by the City of any portion of the plans and specifications, the Airline shall promptly submit necessary modifications and revisions thereof.

Section 2. Construction Procedures. All construction work shall comply with the requirements of and standards established by the City and all other appropriate governmental agencies and entities.

The City shall at all times have the right to monitor and inspect the construction of the Facilities and all site improvements to assure that the Facilities and all site improvements are constructed and installed in compliance with the Plans and Specifications.

In order to assist the City in monitoring and inspecting such construction, the Airline's contractor or contractors shall submit, or cause to be submitted to the City, for information and record purposes, copies of all (i) permit applications, permits and plans required by permits, (ii) field test reports, (iii) material certificates, (iv) approved shop drawings to be reviewed for compliance with the Airport design and construction standards, (v) requests for

payment to contractors or subcontractors, (vi) progress reports, (vii) notification of substantial completion of the leased facilities and all site improvements and final acceptance thereof, (viii) two copies of maintenance and operation manuals in connection with building systems and all updates thereof, (ix) as-constructed drawings, and (x) any other documents related to the construction of the Facilities which may be reasonably requested by the City.

No change order which materially changes the scope of the work shall be effected by the Airline without the approval of the Manager of Aviation, which approval shall not be unreasonably withheld. The City will approve, conditionally approve or disapprove submissions of change orders within a reasonable period of time following receipt thereof. Any conditional approval or disapproval shall be accompanied by an explanation as to the reason therefor.

All construction work, materials, and installations involved in or incidental to the construction of the Facilities and all other improvements on the Leased Property undertaken by the Airline throughout the term hereof shall be subject at all times to inspection and approval by the City.

The Airline shall give or cause to be given to the Manager of Aviation advance notice before performing any modification to the Leased Property.

The Airline shall cause all construction work, workmanship, materials, and installations to be in full compliance with plans and specifications. The City shall have the right to halt construction of the Facilities or any site improvement at any time if such construction is at material variance from the Plans and Specifications until such variance is corrected, or if such construction poses an immediate safety hazard at the Airport, until such safety hazard is eliminated. The City shall cooperate and use its best efforts to alleviate and resolve any such variance or impediment to the safe operation of the Airport so as to permit continuation of construction as expeditiously as possible.

The Airline, at its sole cost and expense, shall make and obtain such utility connections, hook-ups or taps as shall be necessary and shall have the right to receive all necessary utilities and services and shall secure all necessary applications and permits and shall pay all application and permit fees, hook-up or tap fees and all other user charges of whatever nature occasioned thereby. The Airline further agrees at its sole cost and expense to provide meters adequate to measure the amount of utilities and water used or consumed and to maintain said equipment in such a manner as to supply accurate measurement of such usage and consumption.

The Airline shall also include in its agreements with its general contractors covenants that require the construction contractor and its subcontractors of any tier to pay all workers, mechanics, and laborers in accordance with the rates and classifications established under the federal Davis-Bacon Act and Section 20-76 or the Denver Revised Municipal Code, whichever is greater. The Airline further agrees, if requested by the Manager, to fully comply with the procedural requirements of Section 20-76 of the Denver Revised Municipal Code by requiring its general contractors and their subcontractors of any and all tiers to submit to the City true and correct copies of the payroll records of all workers, laborers and mechanics employed.

The Airline throughout the term of this Lease shall not without the prior written approval of the Manager of Aviation make any material or structural alterations, improvements or additions to the Leased Property, including without limitation any interior modifications or improvements.

Any work necessary to make any alterations, improvements or additions to the Leased Property throughout the term of this Lease shall be done at the Airline's sole cost and expense and in accordance with and subject to all of the required approvals, submittals and procedures, and all other requirements of whatsoever nature, set forth herein in reference to the initial construction by the Airline of the Facilities and its related site improvements.

Upon completion of such work, the Airline shall deliver to the City revised as-constructed drawings, and evidence of payment, contractor's affidavits, and full and final waivers of any liens for labor, services, or materials. The Airline shall include in the Airline's agreement with its contractors provisions whereby such contractors shall defend and hold the City and the Leased Property harmless from all costs, damages, liens, and expenses related to such work.

All work done by the Airline or its contractors shall be done in a first-class workmanlike manner using only good grades of materials and shall comply with all insurance requirements and all applicable laws and ordinances and rules and regulations of governmental departments or agencies. Whenever a conflict arises between state or local law, ordinances or regulations, and federal law or regulations, Federal law or regulations applicable to this agreement shall control.

Within 60 days after completion of construction of the Facilities, the Airline shall furnish to the Manager of Aviation two sets of as-constructed drawings, showing in detail all construction, including the locations of all underground and above ground utility lines.

All civil as-constructed drawings shall be provided by the Airline to the City in accordance with the City's design standards, and shall be submitted in the following form:

CADD Submittal Requirements: AutoCAD Rel. 2004 .dwg format CADD files that match the Airline's hardcopy drawings must be submitted via CD-ROM. All drawings must represent precision input and follow industry standard CADD practices. The drawings must reflect true design dimensioning and must NOT be graphic representations of the design. All site, civil, and utility drawings MUST be produced using units in feet and the Denver International Airport Grid Coordinate System. The Denver International Airport project manager must approve submittal and may require adherence to the requirements set forth in Denver International Airport design standards.

Section 3. Compliance with Environmental Requirements.

(a) Compliance by the Airline. The Airline, in conducting any activity on the Airport, including any environmental response or remedial activities, shall comply with all applicable local, state, or federal environmental rules, regulations, statutes, laws or orders (collectively, "Environmental Requirements").

The Airline agrees to ensure that any new facilities or any modifications or alterations to existing facilities are designed, constructed, operated and maintained in a manner that minimizes environmental impact through appropriate preventive measures and complies with all federal, state, and local environmental requirements, including the Airport's Tenant Development Guidelines.

The Airline shall financially reimburse the City for penalties incurred by the City as a result of the release of any pollutant or contaminant from the Leased Property.

The Airline shall conduct all necessary environmental monitoring pertaining to Airline construction, operation, and maintenance activities to ensure compliance with standards set by appropriate environmental laws, codes, regulations, ordinances, permits, and plans. Monitoring records shall be retained and available for inspection. The Airline is required to release any or all environmental data upon request from the City.

The Airline shall obtain all necessary federal, state, and local environmental permits and comply with all applicable federal, state, and local environmental permit requirements concerning its operations at the airport.

In the case of a release, spill, or leak as a result of Airline construction, operation or maintenance activities, the Airline shall immediately control and remediate the contaminated media to applicable federal, state, and local standards.

(b) Review of Environmental Documents. The Airline, at the request of the City, shall make available for inspection and copying at the City's expense, upon reasonable notice and at reasonable times, any or all of the documents and materials that the Airline has prepared or submitted to any governmental agency. If there is a federal, state or local duty to file any notice or report of a release or threatened release of Hazardous Materials or Special Wastes on, under or about the leased facilities, the Airline shall provide a copy of such report or notice to the City, and to the extent practicable, shall receive the approval of the City prior to submitting such notice or report to the appropriate governmental agency.

(c) Access for Environmental Inspection. The City shall have a right of access to the Leased Property and to any of the improvements thereon without prior notice to inspect the same to confirm that the Airline is using the leased facilities in accordance with the Environmental Requirements. The Airline, at the request of the City, shall conduct such testing and analysis as is necessary to ascertain whether the Airline is using the leased facilities in compliance with all Environmental Requirements.

(d) Correction of Environmental Non-Compliance. If the Airline fails to comply with any applicable Environmental Requirement, the City, in addition to its rights and remedies described elsewhere in this lease, at its election, may enter the Leased Property and take such measures as may be necessary to insure compliance with the Environmental Requirements, all at the Airline's expense.

(e) Duty to Notify City. In the event of a release or threatened release of pollutants to the environment relating to or arising out of the Airline's use or occupancy of the Leased Property, or in the event any claim, demand, action or notice is made against the Airline with regard to the Airline's failure or alleged failure to comply with any Environmental Requirements, the Airline immediately shall notify the Denver International Airport Communications Center (303-342-4200), notify the City in writing, and shall provide the City with copies of any written claims, demands, notices or actions so made.

(f) Environmental Remediation. The Airline shall undertake any action as is necessary to remedy or remove any Hazardous or Solid Wastes and any other environmental contamination discovered on or under the Leased Property and/or introduced by or caused by the Airline, as is necessary to protect the public health and safety and the environment from actual or potential harm and to bring the leased facilities into compliance with all applicable Environmental Requirements in effect as of the date thereof.

The work shall be performed at the Airline's expense after the Airline submits to the City a written plan for completing such work and receives the prior written approval of the City, and the City shall have the right to review and inspect all such work at any time using consultants and representatives of the City's choice. Specific cleanup levels for any environmental remediation work shall be designed to comply with applicable requirements under local, state, and federal statutes, regulations, and guidelines.

(g) Environmental Requirements for New Construction (including modifications or alterations to existing facilities). Throughout the construction activities for any facilities, the Airline is responsible for complying with all of the requirements under Denver International Airport Technical Specifications Section 01566 (Environmental Controls), Section 01563 (Temporary Erosion and Sedimentation Control), Section 16642 (Cathodic Protection) and the Airports' Tenant Development Guidelines.

(1) Air Pollution. All activities associated with the construction of the Facilities shall be performed under the Airline's (or their agent's) fugitive dust permit for the construction project. The Airline is responsible for complying with the terms of its permit.

In order to comply with the above-referenced permit requirements, the Airline shall implement the procedures and techniques identified in Denver International Airport Technical Specifications Section 01566.

(2) Water Pollution Controls. The Airline shall comply with the environmental specifications identified in Denver International Airport Technical Specifications Section 01566.

(3) Soil Erosion and Sedimentation Control. The Airline shall submit a plan for City review and approval pertaining to proposed measures to control soil erosion and sedimentation during construction. The plan shall comply with Technical Specification Section 01563 - Temporary Erosion and Sedimentation control. These specifications address topsoil stripping, soil stockpiling, runoff control, sedimentation (traps), air and water pollution, maintenance, and inspection. The Airline shall implement "best management practices" in preventing soil erosion and controlling sedimentation. The Airline shall obtain all necessary state and local permits for new development or construction. The Airline is responsible for the preparation and implementation of any plan required by the permits.

(4) Solid and Hazardous Waste Controls. This subsection applies to solid and hazardous waste as defined by federal and state regulations. Solid waste is defined as all putrescible and non-putrescible solid, semi-solid and liquid wastes, but does not include hazardous waste. The Airline is responsible to minimize the amount of solid and hazardous waste generated during construction activities. An attempt should be made to recycle generated construction debris. The Airline is responsible for the safe disposal of all solid and hazardous waste and shall dispose of such waste in accordance with all applicable laws, regulations, ordinances and Mayor's Executive Order No. 115. Disposal of wastes on Denver International Airport property is prohibited.

The Airline is responsible for complying with the solid and hazardous waste control requirements listed in Denver International Airport Technical Specifications Section 01566.

(5) Noise and Vibration Control. Noise and vibration control requirements are listed in Denver International Airport Technical Specifications Section 01566.

(h) Environmental Requirements for Operation and Maintenance.

(1) Storage Tanks and Ancillary Equipment. All underground storage tanks and pipelines, and any above-ground storage tanks and pipelines in contact with the ground, and any other underground metallic structures installed by Airline on the Leased Property shall be integrated into a cathodic protection program. Airport officials shall be notified of any removal, addition, or modification of underground tanks, piping, and other metallic structures.

Wastewater from maintenance activities shall be pretreated with a water quality pre-treatment device. These devices shall be inspected and maintained by the Airline.

The Airline shall be responsible for all containment, treatment, and disposal of all fuel spills caused by Airline operations using "Best Management Practices." The Airline shall make all "best efforts" to recycle recovered fuel. A Spill Prevention Control and Countermeasures Plan shall be prepared and submitted according to federal (40 CFR 112) and state requirements.

Fuel storage tanks shall either be installed above ground, according to appropriate federal and state requirements, or underground in accordance with EPA regulations cited in 40 CFR Part 280 and State of Colorado CCR 1101-14.

(2) Air Pollution Control. The Airline shall obtain all necessary air emission control permits associated with operation and maintenance of its facilities.

(3) Water Pollution Control. The Airline shall obtain all necessary permits under NPDES (National Pollutant Discharge Elimination System) stormwater regulations (40 CFR Part 122-124), Colorado Pollutant Discharge System (CDDS), and industrial and sanitary pretreatment requirements.

The Airline shall comply with all federal and state water pollution control requirements. Upon the direction of the City, the Airline will be responsible for conducting all appropriate water quality monitoring related to its Denver International Airport operations. This data shall be released to the City upon the City's request.

(4) Waste Management Plan. The Airline shall prepare and submit to the City a Waste Management Plan detailing efforts for waste management and minimization.

APPENDIX NO. 1

STANDARD FEDERAL ASSURANCES

NOTE: As used below the term "contractor" shall mean and include the "Party of the Second Part," and the term "sponsor" shall mean the "City".

During the term of this contract, the contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

1. **Compliance with Regulations.** The contractor shall comply with the Regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation (hereinafter "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.
2. **Nondiscrimination.** The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
3. **Solicitations for Subcontractors, Including Procurements of Materials and Equipment.** In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.
4. **Information and Reports.** The contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto and shall permit access to its books, records, accounts other sources of information, and its facilities as may be determined by the sponsor or the Federal Aviation Administration (FAA) to be pertinent to ascertain compliance with such Regulations, orders, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information, the contractor shall so certify to the sponsor of the FAA, as appropriate, and shall set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance.** In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, the sponsor shall impose such contract sanctions as it or the FAA may determine to be appropriate, including, but not limited to:
 - a. Withholding of payments to the contractor under the contract until the contractor complies, and/or
 - b. Cancellation, termination, or suspension of the contract, in whole or in part.
6. **Incorporation of Provisions.** The contractor shall include the provisions of paragraphs 1 through 5 in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. The contractor shall take such action with respect to any subcontract or procurement as the sponsor or the FAA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request the sponsor to enter into such litigation to protect the interests of the sponsor and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

APPENDIX NO. 2

STANDARD FEDERAL ASSURANCES

NOTE: As used below, the term "DOT" means the United States Department of Transportation.

1. The Party of the Second Part for itself, representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that in the event facilities are constructed, maintained, or otherwise operated on the said property described in this agreement for a purpose for which a DOT program or activity is extended or for another purpose involving the provision of similar services or benefits, the Party of the Second Part shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.
2. The Party of the Second Part for itself, representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land: (1) that no person on the grounds of race, color, sex, creed or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the grounds of race, color, sex, creed or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the Party of the Second Part shall use the premises in compliance with all other requirements imposed by or pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.

APPENDIX NO. 3

NONDISCRIMINATION IN AIRPORT EMPLOYMENT OPPORTUNITIES

The Party of the Second Part assures that it will comply with pertinent statutes, Executive Orders and such rules as are promulgated to assure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or handicap be excluded from participating in any activity conducted with or benefiting from Federal assistance. This Provision obligates the Party of the Second Part or its transferee for the period during which Federal assistance is extended to the airport program, except where Federal assistance is to provide or is in the form of personal property or real property or an interest therein or structures or improvements thereon. In these cases, this Provision obligates the Party of the Second Part or any transferee for the longer of the following periods: (a) the period during which the property is used by the sponsor or any transferee for a purpose for which Federal assistance is extended, or for another purpose involving the provision of similar services or benefits; or (b) the period during which the airport sponsor or any transferee retains ownership or possession of the property. In the case of contractors, this Provision binds the contractors from the bid solicitation period through the completion of the contract.

It is unlawful for airport operators and their lessees, tenants, concessionaires and contractors to discriminate against any person because of race, color, national origin, sex, creed, or handicap in public services and employment opportunities.

APPENDIX NO. 10

DISADVANTAGED BUSINESS ENTERPRISES - REQUIRED STATEMENTS

Policy. It is the policy of the Department of Transportation that disadvantaged business enterprises as defined in 49 CFR Part 23 shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with federal funds under this agreement. Consequently, the DBE requirements of 49 CFR Part 23 apply to this agreement.

DBE Obligation. The recipient or its contractor agrees to ensure that disadvantaged business enterprises as defined in 49 CFR Part 23 have the maximum opportunity to participate in the performance of contracts financed in whole or in part with federal funds provided under this agreement. In this regard, all recipients or contractors shall take all necessary and reasonable steps in accordance with 49 CFR Part 23 to ensure that disadvantaged business enterprises have the maximum opportunity to compete for and perform contracts. Recipients and their contractors shall not discriminate on the basis of race, color, sex, creed or national origin in the award and performance of DOT-assisted contracts.

Source: 49 CFR 23.42 and Advisory Circular 150/1500-15, Appendix 10.

49 CFR 23.5 defines a DOT-assisted contract as "any contract or modification of a contract between a recipient and a contractor which is paid for in whole or in part with DOT financial assistance or any contract or modification of a contract between a recipient and a lessee." "Contractor" means ... "and includes lessees." The City is the "recipient."

