

**CONCESSION AGREEMENT FOR AVIATION FUELING
OPERATIONS AT THE HAWTHORNE MUNICIPAL AIRPORT**

THIS FUELING AGREEMENT (the "Agreement"), made and entered into this 11th day of April, 2017 by and between the CITY OF HAWTHORNE, a municipal corporation, hereinafter referred to as "CITY", and HAWTHORNE HANGAR OPERATIONS, L.P., a California limited partnership, hereinafter referred to as "HHO."

RECITALS

WHEREAS, CITY owns Hawthorne Municipal Airport – Jack Northrop Field (the "Airport Property"); and

WHEREAS, HHO owns a hangar and associated ramp area (the "Hangar Property", and as more particularly shown on Exhibit "A" attached) on property that is adjacent to the Airport Property, which HHO operates pursuant to the terms and conditions of Through-The-Fence Agreement date November 16, 2009 (the "TTF"). In exchange for payment of a monthly rent, the TTF also grants HHO certain rights with respect to a designated tarmac/ramp area adjacent to and north of the Hangar Property (the "Ramp Area"), which is also shown on Exhibit "B".

WHEREAS, HHO is completely renovating to operational status a Fuel Storage facility Site and Self Service Island (the "Fueling Facility") located on the Hangar Property, which will be used by HHO in connection with its access to the Airport Property and the Ramp Area; and

WHEREAS, Hawthorne Municipal Code Section 10.80.220 provides that the Airport Manager is designated as fuel inspector of the CITY with powers of supervising and inspecting activities related to the dispensing of aviation gasoline and fuel within the CITY and that he shall establish an inspection program to ensure against unsafe and dangerous utilization of aviation gasoline; and

WHEREAS, the City Council of the City of Hawthorne is authorized by the provisions of Government Code Section 50474 to contract for concessions and services that are consistent with the regulation of airport activities; and

WHEREAS, both the CITY and HHO desire to establish an agreement regarding the use of the Fueling Facility and the Ramp Area that will ensure against unsafe and dangerous utilization of aviation gasoline; and

NOW, THEREFORE, in consideration of the mutual promises, covenants and conditions set forth herein, the parties hereto and each of them do hereby agree as follows:

1. CONCESSION GRANTED.

1.01 HHO is hereby authorized to sell aviation fuel at the Hawthorne Municipal Airport, said fueling activities to be conducted from the Fueling Facility on the Hangar Property, for the term set forth below in Section 3.

1.02 The concession and authorization for fueling activities shall be nonexclusive.

1.03 Nothing in this Agreement shall be interpreted to authorize HHO to permit any aircraft to use the airport access point created pursuant to the TTF Agreement unless that aircraft is a “registered aircraft” pursuant to the TTF Agreement or is otherwise permitted access under the TTF Agreement.

2. CONCESSION PREMISES.

2.01 The fueling activities shall be conducted from the Fueling Facility as shown on Exhibit A, which is on the Hangar Property, with incidental use of the Ramp Area to allow for the parking or staging of aircraft and other equipment in connection with the actual fueling operations.

2.02 The Fueling Facility shall be used only and exclusively for aircraft fueling purposes and such other purposes as are related thereto.

2.03 HHO acknowledges personal inspection of the Ramp Area and the Airport generally and has evaluated the extent to which the physical condition thereof will affect the concession. HHO agrees to make no demands upon CITY for any improvements or alteration thereof in order to facilitate the concession granted herein. This Agreement does not grant HHO any new rights with respect to the improvement of the Ramp Area or make any new guarantees of uninterrupted access to the Ramp Area.

2.04 HHO may make or construct or cause to be made or constructed additions, alterations, repairs or changes in the Fueling Facility at HHO’s sole expense, provided that any written approvals and the requisite permits as may be required by law are first obtained from the Chief of Public Works & General Services and/or other agencies. HHO acknowledges and agrees that the Chief of Public Works & General Services may impose terms and conditions with respect to fueling activities conducted by HHO consistent with the specific scope of authority granted to the Chief of Public Works & General Services pursuant to the Hawthorne Municipal Code.

2.05 Ownership of all structures, buildings or improvements constructed by HHO upon the Fueling Facility and all alterations, additions or betterments thereto, shall be and remain the property of HHO, notwithstanding the termination or expiration of this Agreement. Except in its regulatory capacity, CITY shall have no responsibility for such structures, buildings or improvements.

3. TERM

3.01 The term of the concession shall be for a period of fifteen (15) years, commencing as of the date of this agreement and terminating as of February 14, 2032 unless earlier terminated for any of the reasons set forth in Section 15 herein.

3.02 In the event HHO continues the fueling activities at the Fueling Facility beyond the term herein provided with the consent, expressed or implied of CITY, such holding shall be from month to month only, subject to the conditions of this agreement; shall not be a renewal thereof; and shall be at the monthly compensation provided herein. Any consent of the City that has not been provided in a writing approved by the City Council may be revoked at any time in writing by the City without penalty to the City.

4. PAYMENT

4.01 In consideration of the CITY's approval of this Agreement, and regardless of any prior agreement to a lower fuel flowage fee, HHO agrees to pay to the CITY the greater of (i) fourteen cents (\$0.14) per gallon of aviation fuel sold, or (ii) the equivalent net fuel flowage fee per gallon paid by other authorized tenants on the Airport Property to the CITY for aviation fuel sold. The fuel flowage fee shall be paid on a monthly basis.

4.02 Payment shall be made payable to the City of Hawthorne and submitted to Chief of Public Works & General Services or his designee on or before the tenth (10th) day of the calendar month following each month of the term provided herein. In the event payment is not made on or before said date, a penalty of ten percent (10%) per month shall be added to the unpaid amount. However, the penalty herein provided may be waived whenever the Chief of Public Works & General Services finds late payment excusable by reason of extenuating circumstances.

5. ACCOUNTING RECORDS

5.01 HHO shall be required to maintain a method of accounting which shall be to the satisfaction of the Chief of Public Works & General Services and correctly and accurately reflect the gross receipts and disbursements of HHO in connection with the concession for fueling activities only, and for no other business activity of HHO. The method of accounting, including bank accounts established for the concession shall be consistent with the accounting system used for any other business operated by HHO. Such method shall include the keeping of the following documents (or applicable excerpts) relating to the operation of the Fueling Activities:

- a. Regular books of accounting such as general ledgers.
- b. Journals including any supporting and underlying documents such as vouchers, checks, tickets, bank statements, etc.
- c. State and federal income tax returns and sales tax returns and checks and other documents providing payments of sums owed which shall be kept in confidence by CITY.
- d. Cash register or cash box invoice tapes (daily tapes may be separated but shall be retained so that from day to day the sales can be identified).
- e. Any other accounting records that the Chief of Public Works & General

Services deems necessary for proper reporting of receipts.

5.02 All sales shall be recorded in a secure manner that provides, on a daily basis, a full reconciliation of each sale, the total daily volume, and the corresponding meter readings for the amount of fuel dispensed during the daily sales period. Said system shall preclude manipulation of the applicable figures.

5.03 All documents, books and accounting records necessary for the calculation and verification of the fuel flowage fee shall be open for inspection and re-inspection at any reasonable time during the term of this agreement. In addition, the Chief of Public Works & General Services or his designee may from time to time conduct an audit or cause an audit to be conducted of the books relating to the fueling activities conducted by HHO and observe the operation of the Fueling Facility so that the accuracy of the above records can be confirmed. If the report of gross sales made by HHO to the Chief of Public Works & General Services should be found to be less than the amount of gross sales disclosed by such audit and observation, HHO shall pay the delinquent amount within thirty (30) days of billing therefore. If the additional amount due exceeds two percent (2%), and there is no reasonable basis for the failure to report and pay thereon, HHO shall also pay the cost of the audit and the penalty heretofore provided for delinquent payments. All information obtained in connection with the Chief of Public Works & General Services' inspections of records or audit shall be treated as confidential information.

5.04 HHO shall furnish the Chief of Public Works & General Services or his designee with a monthly gross receipts report showing the amount payable there from to the CITY, solely with regards to fuel, oil and solvent sales. Such a report shall accompany each monthly payment required to be made as provided herein.

6. OPERATING RESPONSIBILITIES

6.01 Compliance with Law

HHO's operation of the Fueling Facility shall conform to and abide by all leak detection programs and tank level monitoring requirements as required by Los Angeles County Public Works. All equipment and monitoring reports required by the leak detection and tank level monitoring programs shall be HHO's responsibility to maintain, repair and/or replace. HHO agrees to comply with all applicable Building and Fire regulations as adopted by the CITY with respect to the Fueling Facility and the related fueling activities. HHO agrees to obtain all applicable permits for the Fueling Facility and related fueling activities and to maintain them current including those from the following agencies: The South Coast Air Quality Management District; City of Hawthorne Publics Works, Building and Safety, Licensing and Code Enforcement, and Police Departments; Los Angeles County Fire Department; and, State of California Division and Weights and Measures.

6.02 Compliance with Laws, Etc.

HHO shall at all times comply with the airport rules and regulations, federal, state and local laws, ordinances, codes and other regulatory measures now in existence or, as may be hereafter modified or amended, applicable to the specific type of operation contemplated.

6.03 **Disorderly Persons**

HHO agrees to remove any loud, boisterous or disorderly persons from the Ramp Area.6.04 **Illegal Activities**

HHO shall not permit any illegal activities to be conducted upon the Fueling Facility or Ramp Area.

6.05 **Signs**

HHO shall not post signs or advertising matter in the Airport or on the Ramp Area, unless prior written approval therefore is obtained from the Chief of Public Works & General Services.

6.06 **Non-Interference**

HHO shall not interfere with the public use of Hawthorne Municipal Airport as a general aviation airport.

6.07 **Concession Staff**

HHO shall maintain an adequate and trained staff.

6.08 **Days and Hours of Operation**

HHO shall notify the Chief of Public Works & General Service of its normal operating hours for the Fueling Facility, and shall notify the Chief of Public Works & General Services of any permanent change in the normal hours of operation. However, nothing shall preclude dispensing fuel outside the normal operating hours on an intermittent basis if necessary to service HHO's customers.

6.09 **Prices**

HHO shall at all times maintain a complete list or schedule of prices charged for all fuels and fueling services, and related products, which are supplied to the public on or from the Fueling Facility. Said prices shall be fair and reasonable based upon the following considerations: that the concession is untenanted to serve the needs of the public for the goods and/or services supplied at a fair and reasonable cost; comparability with prices charged for similar goods and/or services supplied in the Los Angeles Metropolitan Area; and reasonableness of profit margin in view of the cost of providing same in compliance with the obligations assumed in this agreement. In the event the Chief of Public Works & General Services notifies HHO that prices being charged are not fair and reasonable, HHO shall have a right to confer with the Chief of Public Works & General Services and justify said prices. Following reasonable conference and consultation thereon, HHO shall

make such price adjustments as may be ordered by the City Manager. HHO may appeal the determination of the City Manager to the City Council, whose decision thereon shall be final and conclusive. However, HHO shall comply with the ordered price adjustment pending the appeal and final ruling thereon by the City Council. HHO will increase retail price of fuel only as necessary due to increase in the cost of operating the fuel concession that occur following the date of this agreement. Proof of such cost increases shall be provided and accepted by the City Manager prior to implementation of the retail fuel price increase.

6.10 Removal of Objectionable Goods and Services

HHO shall immediately remove or withdraw from sale any goods or services provided from the Fueling Facility in connection with the fueling activities which may be found objectionable to the public welfare by the Chief of Public Works & General Services following receipt of written notification therefore.

6.11 Safety

HHO shall immediately correct any unsafe condition of the Fueling Facility (or the Ramp Area as a consequence of fueling operations), as well as any unsafe practices occurring in connection with fueling operations.

6.12 Non Discrimination

In the operation of the Fueling Facility, HHO will not discriminate against any person or class of persons by reason of race, color, creed or national origin in a manner prohibited by Part 15 of the Federal Aviation Regulations. HHO further agrees to comply with such enforcement procedures as the United States might demand that CITY takes in order to comply with the Federal Grant Assurances.

7. DESTRUCTION OF HAWTHORNE MUNICIPAL AIRPORT

7.01 In the event that the Airport Property shall be destroyed by fire, earthquake, flood, storms, war, insurrection, riot, public disorder or casualty, CITY may terminate this Agreement without penalty. Under no circumstances shall this Agreement be interpreted to require that the CITY conduct any restoration or repair of the Ramp Area or the Airport generally, except to the extent such restoration or repair is required by some other agreement or applicable law or regulation.

8. ASSIGNMENT AND SUBORDINATION

8.01 Assignment

HHO may not assign its rights under this Agreement except in connection with an assignment of all of its rights under the TTF Agreement that is permitted and approved pursuant to that Agreement. Any such assignee shall agree in writing to be bound by all

of the provisions of this Agreement and to assume the obligations of HHO.

8.02 Subordination

This Agreement, and the operation of the Fueling Facility pursuant to this Agreement, shall be subordinate to the provisions of any existing or future agreement between the CITY and the UNITED STATES relative to the operation and maintenance of the Airport Property, execution of which has been or may be required as a condition precedent to the expenditure of federal funds for the development of the Airport Property.

HHO acknowledges, agrees, and understands that the CITY has leased portions of the Airport to Hawthorne Airport, LLC, a Delaware Limited Liability Company ("Ground Lessee") pursuant to that certain ground lease dated as of January 3, 2005 by and between CITY and Ground Lessee, as amended by that certain first amendment dated as of November 27, 2005, and that certain second amendment dated as of June 13, 2006. HHO acknowledges that it is of critical importance to the CITY that the CITY obtains the full financial benefits of the Ground Lease, as amended, as those financial benefits (including lease payments, fuel flowage fees, and other fees) are set forth in the Ground Lease. Consequently, in the event that any person or government entity asserts that--as a result of the financial terms of this Agreement-- any grant assurances (or other federal obligations to which this Agreement is subordinated) require that the financial obligations under the Ground Lease be reduced or that the financial obligations under this Agreement be increased, HHO agrees to do one of the following: (i) accept a revision of its financial obligations under this Agreement in a manner that eliminates the claim made by the person or government entity; or (ii) indemnify the CITY in the manner set forth in Section 9.01 against any lawsuit or administrative proceeding brought by such person or government entity in support of such claim. HHO specifically agrees that it will not be entitled to any damages from CITY of any nature in the event any court or administrative entity issues an enforceable final order declaring that all (or any part of) this Agreement is void or unenforceable by virtue of any obligation to which this Agreement is subordinated.

9. INDEMNIFICATION AND HOLD HARMLESS AND WAIVER OF SUBROGATION AND CONTRIBUTION

9.01 To the fullest extent permitted by law, HHO (also known as "Indemnitor") hereby agrees, at its sole cost and expense, to defend, protect, indemnify, and hold harmless the City of Hawthorne, the Chief of Public Works & General Services and their respective elected officials, officers, attorney, agents (including independent contractors who serve as City of Hawthorne officers or officials), employees, volunteers, successors, and assigns (collectively "Indemnitees") from and against any and all damages, costs, expenses, liabilities, claims, demands, cause of action, proceedings, expenses, judgments, penalties, liens, and losses of any nature whatsoever, including fees of accountants, attorneys, or other professionals and all costs associated therewith (collectively "Liabilities"), arising or claimed to arise, directly or indirectly, out of, in connection with, resulting from, or related to any act, failure to act, error, or omission of Indemnitor or any of its officers,

agents, servants, employees, subcontractors, materialmen, suppliers or their officers, agents, servants or employees, arising or claimed to arise, directly or indirectly, out of, in connection with, resulting from, or related to the above-referenced contract, agreement, license, fueling activities or permit ("the Concession") or the performance or failure to perform any term, provision, covenant, or condition of the Agreement, including this indemnity provision. This indemnity provision is effective regardless of any prior, concurrent, or subsequent active or passive negligence by Indemnitees and shall operate to fully indemnify Indemnitees against any such negligence. This indemnity provision shall survive the termination of the Agreement and is in addition to any other rights or remedies which Indemnities may have under the law. Payment is not required as a condition precedent to an Indemnitee's right to recover this indemnity provision, and an entry of judgment against an Indemnitee shall be conclusive in favor of the Indemnitee's right to recover under this indemnity provision. Indemnitor shall pay Indemnitees for any attorney's fees and costs incurred in enforcing this indemnification provision. Notwithstanding the foregoing, nothing in this instrument shall be construed to encompass (a) Indemnitee's sole negligence or willful misconduct, or (b) the contracting public agency's active negligence. This indemnity is effective without reference to the existence or applicability of any insurance coverage which may have been required under this Agreement or any additional insured endorsements which may extend to Indemnitees, accountants, attorneys, or other professionals employed by Indemnitor to defend Indemnitees shall be selected by Indemnitees. Indemnitor, on behalf of itself and all parties claiming under or through it, hereby waives all rights of subrogation and contribution against the Indemnitees, while acting within the scope of their duties, from all claims, losses and liabilities arising out of or incident to activities or operations performed by or on behalf of the Indemnitor regardless of any prior, concurrent, or subsequent active or passive negligence by the Indemnitees. In the event there is more than one person or entity named in the Agreement as an Indemnitor, then all obligations, liabilities, covenants and conditions under this provision shall be joint and several.

9.02 In the event any of the aforementioned persons recovers a judgment against CITY or any of its officers, agents or employees, by reason of any of the aforementioned acts, omissions, or willful conduct HHO shall defend and indemnify same in an amount equal to the judgment entered.

9.03 HHO represents to CITY that HHO is not prohibited by any valid and enforceable law, regulation, contractual provision, encumbrment of title to real property, or other legal restriction of any kind from using the Hangar Property or the Ramp Area for the fueling operations contemplated by this Agreement. HHO's obligations under Section 9.01 of this Agreement shall extend to any and all Liabilities that arise based on a claim asserting that HHO is prohibited by a law, regulation, contractual provision, encumbrment of title to real property, or other legal restriction of any kind from using the Hangar Property or the Ramp Area for the fueling operations contemplated by this Agreement.

10. HAZARDOUS SUBSTANCE CONTAMINATION AND TOXIC MATERIALS

10.01 **Remediation.**

HHO agrees to remediate, at its sole cost, all hazardous substance contamination that is found to have occurred as a direct result of the installation, operation, and/or maintenance of the fueling activities and the Fueling Facility. HHO shall be solely responsible for and shall defend, indemnify, and hold harmless the CITY from and against any and all Liabilities arising out of, resulting from or caused by the Use of Toxic Materials at the Fueling Facility, or the presence of Toxic Materials emanating from the Fueling Facility, in the soil, subsoil, or groundwater located in, on, or under the Airport Property, or the effect of Toxic Materials from the Fueling Facility migrating to other real property from the Airport premises, but only to the extent that the Liabilities are, or are likely to be, the result of or caused by the HHO's activities in connection with the Fueling Facility. The indemnification by the HHO under this section shall survive the termination of this Agreement.

10.02 **Compliance with Environmental Laws.**

HHO shall comply, at HHO's sole cost, with all environmental laws applicable to all toxic materials and to the lawful conduct of the HHO's business to the extent performed on or about the Fueling Facility or the Hawthorne Airport premises. It is the obligation of HHO to obtain any permits and approvals required for the operation of HHO's business pursuant to the applicable environmental laws.

To the extent remediation or compliance actions on the Hawthorne Airport premises (including the Ramp Area) is necessary because of any contamination of the Fueling Facility HHO shall or shall cause any responsible party to investigate the site conditions and perform to completion, any and all investigation, clean-up, remediation, removal or restoration work; (i) necessary to bring the premises into compliance with the applicable environmental laws; (ii) necessary to bring any other real property into compliance with the applicable environmental laws in the event of any migration of toxic materials from the Airport property to such other real property; (iii) necessary to maintain the Airport premises in compliance with the applicable environmental laws; or (iv) required by any federal, state, or local governmental agency or political subdivision at any time during or after the term of the Agreement; or (v) necessary to restore the condition of the Airport premises to a level below regulatory action levels. The obligations of the Concessionaire under this section shall survive the termination of this Agreement. Nothing herein shall obligate HHO to remediate either of the following: (1) any contamination of the Airport Property that existed prior to the date of this Agreement or (2) any contamination not arising out of the Fueling Facility or HHO's Fueling Operations. The preceding sentence relates only to obligations under this Agreement and does not affect any other obligation that HHO might have under any applicable law or other agreement.

10.03 **Notice.**

If HHO is required by statute or regulation to give notice to any agency about any Contamination, HHO shall immediately give the CITY's Airport Manager the same notice by telephone, which shall be confirmed by written notice not later than the next business day. This obligation to notify City shall also extend to any personal injuries or property

damage to third parties resulting directly or indirectly from said Contamination. If HHO becomes aware of the presence of or use of any Toxic Materials not authorized in accordance with the terms of this Agreement, or of any Contamination not subject to the notification provisions of the first sentence of this section, HHO shall immediately give written notice of such condition to CITY to the extent required by California Health and Safety Code section 25359.7.

10.04 **Disposal of Toxic Materials.**

Notwithstanding anything to the contrary contained in this Agreement, HHO shall not release or dispose of any Toxic Material, in the drains, storm drains, sewers, plumbing, or any other drainage facility with the Airport premises or the Airport that will cause or contribute to a violation of Environmental Laws or Contamination. The offsite disposal of Toxic Materials shall be in strict compliance with all Environmental Laws.

10.05 **Fees, Taxes and Fines.**

HHO shall pay, prior to delinquency, any and all fees, taxes (including excise taxes) and fines that are charged upon or incident to HHO activities related to Toxic Materials.

10.06 **Delivery of Documentation.**

HHO shall deliver to CITY true and correct copies of the following documents related to compliance with Environmental Laws in the operation of the Fueling Facility concurrently with the receipt from or submission to an agency: (i) permit applications; (ii) permits and approvals; (iii) notices of violations of Environmental Laws and HHO's responses thereto; (iv) environmental assessments, and (v) any other document related to compliance with Environmental Laws that the CITY may reasonably request from time to time.

11. **INSURANCE**

11.01 HHO shall purchase on or before commencement of this Agreement policies of commercial general liability, ground hangar keeper's liability, products and completed operations liability, workers' compensation and property insurance from companies authorized to transact business in this state by the Insurance commissioner thereof.

11.02 HHO shall procure and maintain general liability insurance protecting HHO and the CITY, its elected officers, agents and employees against claims arising from bodily injury or death to persons occurring on HHO's Fueling Facility or otherwise through HHO's operation or performance under this Agreement. Said insurance shall consist of combined single limit liability coverage in an amount of Four Million Dollars (\$4,000,000) or equivalent coverage as approved by the City Attorney. The CITY and its respective elected officials, officers, attorneys, agents (including independent contractors who serve as CITY's officers or officials), employees, volunteers, successors, and assigns are additional insureds ("Additional Insureds") under the Policy in relation to those activities described generally in this Agreement with regard to activities or operations performed pursuant to the Concession or otherwise arising under or claimed to arise, directly or indirectly, out or in connection with, resulting from, or related to this Agreement,

including but limited to fueling activity, storage of fuel, security as to storage or operation of fueling activity, storage of equipment necessary for fueling activity and use of motor vehicles, including airplane/aircraft. The general liability insurance policy shall be non-cancelable and non-modifiable without thirty (30) days written notice thereof directed to CITY.

11.03 **Aircraft Liability Insurance.**

If HHO conducts or manages flight operations, aircraft liability shall be maintained to cover all owned, non-owned, and hired aircraft, written on an occurrence basis in an amount not less than Five Million Dollars (\$5,000,000) combined single limit for each occurrence for bodily injury, death (including passengers) and property damage. Initial coverage may be subject to a sub-limit on One Hundred Thousand Dollars (\$100,000) per person.

11.04 **Pollution Liability Insurance**

Pollution liability insurance covering all operations and Leased Premises for both gradual and sudden events in an amount no less than One Million Dollars (\$1,000,000) per occurrence, and Two Million Dollars (\$2,000,000) annual policy aggregate, shall be maintained, subject to a deductible or self-insured retention of no more than Twenty-Five Thousand Dollars (\$25,000) per occurrence.

11.05 HHO shall file with the Chief of Public Works & General Services prior to commencement of the concession a certificate of insurance for each of the required policies executed by the company issuing the policy, certifying that the policy is in force as a primary rather than a contributing or excess policy and providing the following information with respect thereto:

- a. The policy number.
- b. The date upon which the policy will become effective and the date upon which it will expire.
- c. The names of the named insured and any additional insured.
- d. Subject of the insurance.
- e. The type of coverage provided by the insurance.
- f. The amount of limit of coverage provided by the insurance.
- g. A description of all endorsements that form a part of the policy.

11.06 Conduct of the concession shall not commence until HHO has complied with the

aforementioned insurance requirements, and shall be suspended during any period HHO fails to maintain said policies in full force and effect. Said certificates of insurance must be in a form acceptable to the City Attorney and bear the actual signature of the insurer's authorized agent, rather than a facsimile signature.

12. TAXES AND ASSESSMENTS

12.01 Any property interest related to this Agreement may be subject to property taxation and/or assessment thereon, and in the event thereof, HHO shall pay before delinquency all lawful taxes, assessments, fees or charges which at any time may be levied by the State, County, City or any other tax or assessment-levying body upon the concession premises and any improvements located thereon.

12.02 HHO shall also pay all taxes, assessments, fees and charges on goods, merchandise, fixtures, appliances and equipment owned or used therein.

13. NON-DISCRIMINATION

13.01 HHO certifies and agrees that all persons employed by it, are and shall be treated equally without regard to or because of race, religion, ancestry, national origin or sex, and in compliance with all federal and state laws prohibiting discrimination in employment.

13.02 HHO certifies and agrees that subcontractors, bidders and vendors thereof are and shall be selected without regard to or because of race, religion, ancestry, national origin or sex.

14. CANCELLATION

14.01 Upon the occurrence of any one or more of the events of default hereinafter described, this agreement shall be subject to cancellation. As a condition precedent thereto, the City Manager shall give HHO ten (10) days written notice of the date set for cancellation thereof, the grounds therefor; and that an opportunity to be heard thereon will be afforded on or before said date, if request is made thereof. For the avoidance of doubt, the notice required to be given by the City Manager to HHO hereunder shall be in addition to any and all required written notices given in connection with the occurrence of an Event of Default described in Section 15 hereof

Notwithstanding the foregoing, in the case of a non-monetary default which cannot with due diligence be cured within the period of ten (10) days provided in Section 15, HHO shall have such additional time to cure same as may reasonably be necessary, provided: (i) HHO commences to cure such failure within the ten (10) day period and proceeds promptly, effectively, continuously, and with due diligence to cure such failure after receipt of said notice, and (ii) within such initial ten (10) day period, HHO provides City with notice describing with reasonable specificity the steps Tenant shall take to effect such cure and the time which is anticipated to be required to effect such cure. However,

to the extent CITY notifies HHO that its default is causing a condition that presents a serious risk to health and safety or a serious interference with airport operations, HHO shall cease during this additional cure period operations that the City has identified as creating the serious risk or interference.

14.02 Action by CITY to effectuate a cancellation of this Agreement shall be without prejudice to the exercise of any other rights provided herein or by law to remedy a breach of this agreement.

14.03 Any trustee, beneficiary, mortgagee or lender of HHO and the Fueling Facility under a hypothecation or mortgage previously approved by the City Manager shall have the right at any time during the term of this agreement to undertake any and all action that may be required in order to prevent a cancellation of this agreement and a forfeiture of the concession. Accordingly, the City Manager or his designee shall send a copy of any intended cancellation of this agreement to any of the aforementioned parties whose security would be affected thereby; and upon request thereof for postponement, extend the date set therefor by such time as the City Manager finds reasonable in order to allow said parties to correct the grounds therefore.

15. EVENTS OF DEFAULT

15.01 The failure of HHO to punctually pay or make the payments required hereunder when due, where the delinquency continues beyond ten (10) days following HHO's receipt of written notice for payment thereof

15.02 The failure of HHO to operate in the manner required by this agreement, where such failure continues for more, than ten (10) days after written notice from the Chief of Public Works & General Services to correct the condition therein specified.

15.03 The failure to maintain the Fueling Facility and the Ramp Area in the state of repair required hereunder, and in a clean, sanitary, safe and satisfying condition, where such failure continues for more than ten (10) days after written notice from the Chief of Public Works & General Services to correct the condition.

15.04 , A final determination of the State Fair Employment Commission, or the Federal Equal Employment Opportunity commission of discrimination having been practiced by HHO in violation of state and/or federal laws thereon which is not appealed.

15.05 The failure of HHO to keep, perform and observe all other promises, covenants, conditions and agreements set forth in this Agreement, where such failure continues for more than thirty (30) days after HHO's receipt of written notice from the Chief of Public Works & General Services for correction thereof, provided that where fulfillment of such obligation requires activity over a period of time and HHO shall have commenced to perform whatever may be required to cure the particular default within ten (10) days after such notice and continues such performance diligently, said time limit may be waived in the manner and to the extent allowed by the Chief of Public Works & General Services.

16. WAIVER

16.01 Any waiver by CITY of any breach of any one or more of the covenants, conditions, terms and agreements herein contained shall not be construed to be a waiver of any subsequent or other breach of the same or of any other covenant, condition, term or agreement herein contained, nor shall failure on the part of CITY to require exact, full and complete compliance with any of the covenants, conditions, terms or agreements herein contained be construed as in any manner changing the terms of this agreement or estopping CITY from enforcing the full provisions thereof.

16.02 No delay, failure, or omission of CITY to exercise any right, power, privilege or option, arising from any default, nor any subsequent acceptance of payments then or thereafter accrued shall impair any such right, power, privilege or option, or be construed as a waiver of or acquiescence in such default or as a relinquishment of any right.

16.03 No notice to HHO shall be required to restore or revive "time of the essence" after the waiver by CITY of any default.

16.04 No option, right, power, remedy or privilege of CITY shall be construed as being exhausted by the exercise thereof in one or more instances. The rights, powers, options and remedies given CITY by this agreement shall be cumulative.

17. RIGHT OF ENTRY

With reasonable prior notice, any officer and/or employee of CITY may enter upon the Fueling Facility at any and all reasonable times for the purpose of determining whether or not HHO is complying with the terms and conditions of this Agreement.

18. INTERPRETATION

18.01 This agreement shall be interpreted according to the rules which govern the interpretation of contracts, as prescribed in Part 2 of Division 3 of the State Civil Code, commencing with Section 16352.

18.02 The headings herein contained are for convenience and reference only and are not intended to define or limit the scope of any provision thereof.

18.03 This Agreement shall be interpreted and construed in a manner that ensures that the CITY continues to be in compliance with its obligations under the Grant Assurances.

19. ENFORCEMENT

19.01 The Chief of Public Works & General Services shall be responsible for the enforcement of this agreement on behalf of CITY and shall be assisted therein by those officers and employees of CITY having duties in connection with the administration thereof.

19.02 In the event of any legal proceedings for the enforcement of this agreement the prevailing party shall be entitled to its attorney's fees and costs.

20. NOTICES

Any notice required to be given under the terms of this agreement or any law applicable thereto may be placed in a sealed envelope, with postage paid, addressed to the person on whom it is to be served, and deposited in a post office, mailbox, sub-post office, sub-station or mail chute, or other like facility regularly maintained by the United States Postal Service. The address to be used for any notice served by mail upon HHO shall be 909 East Green Street, Pasadena, California 91106, or such other place as may hereinafter be designated in writing to the Chief of Public Works & General Services by HHO. Any notice served by mail upon CITY shall be addressed to the Chief of Public Works & General Services, 4455 West 126th Street, Hawthorne, California 90250, or such other place as may hereinafter be designated in writing to HHO by the Chief of Public Works & General Services. Service by mail shall be deemed complete upon deposit in the above mentioned manner.

21. ENTIRE AGREEMENT

21.01 This document, and the exhibits attached hereto, constitutes the entire agreement between the CITY and HHO for the concession and use granted herein for the Fueling Facility at the Hawthorne Municipal Airport. All other agreements, promises and representations with respect thereto, other than contained herein, are expressly revoked as it has been the intention of the parties to provide for a complete integration within the provision of this document, and exhibits attached hereto, the terms, conditions, promises and covenants relating to the concession and the premises to be used in the conduct thereof. The unenforceability, invalidity, or illegality of any provision of this agreement shall not render the other provisions thereof unenforceable, invalid or illegal.

21.02 This document may be modified only by further written agreement between the parties hereto. Any such modification shall not be effective unless and until executed by HHO and in the case of CITY until approved by the City Council.

IN WITNESS WHEREOF, this Agreement is hereby deemed executed as of the date first above written.

HHO:

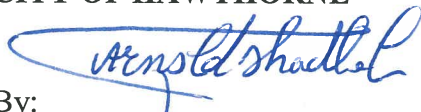
**HAWTHORNE HANGAR
OPERATIONS, L.P.**, a California
limited partnership

By: Hawthorne Hangar Management,
LLC, Its General Partner

By: Wolfe Air Aviation, Ltd., Its


CITY:

CITY OF HAWTHORNE

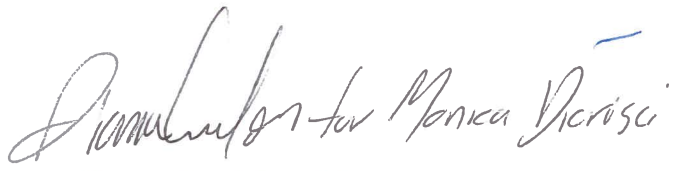
By: 

Its: City Manager

ATTEST:


By: 
Dan Wolfe, Manager

Date: 4-13-17


Its: Deputy City Clerk

Date: 4-12-2017

APPROVED AS TO FORM:

By: 
Its: City Attorney

Date: 4-12-2017