

MAR 21 2005

RECORDING REQUESTED BY

City Clerk
City of Burbank
P.O. Box 6459
Burbank, California 91510

COPY of Document Recorded
05 0643306
Has not been compared with original.
Original will be returned when
processing has been completed.
LOS ANGELES COUNTY REGISTRAR - RECORDER

WHEN RECORDED MAIL TO

NAME City Clerk

MAILING City of Burbank
ADDRESS P.O. Box 6459

CITY, STATE Burbank, California
ZIP CODE 91510

SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE

TITLE(S)

DEVELOPMENT AGREEMENT BETWEEN THE CITY OF BURBANK
AND THE BURBANK-GLENDALE-PASADENA AIRPORT AUTHORITY
RELATING TO THE BOB HOPE AIRPORT

RECORDING REQUESTED BY
AND WHEN RECORDED
MAIL TO:

City Clerk
City of Burbank
P. O. Box 6459
Burbank, CA 91510

WITH A CONFORMED COPY TO:

Burbank-Glendale-Pasadena
- Airport Authority
2627 Hollywood Way
Burbank, CA 91505

SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE
EXEMPT FROM FEES PURSUANT TO GOV'T CODE SECTION 6103

**DEVELOPMENT AGREEMENT
BETWEEN THE CITY OF BURBANK
AND THE BURBANK-GLENDALE-PASADENA
AIRPORT AUTHORITY RELATING
TO THE BOB HOPE AIRPORT**

TABLE OF CONTENTS

	Page
ARTICLE I DEFINITIONS	7
Section 1.1 “A-1 North Property”	7
Section 1.2 “Adjacent Property”	7
Section 1.3 “Adverse Law or Decision”	7
Section 1.4 “Agreement”	7
Section 1.5 “Airport Land Use Working Group”	7
Section 1.6 “Airport”	7
Section 1.7 “Airport Zone”	7
Section 1.8 “Ancillary Approvals”	7
Section 1.9 “Authority”	8
Section 1.10 “Authority Staff Representative”	8
Section 1.11 “BRL”	8
Section 1.12 “CEQA”	8
Section 1.13 “Change in Circumstances”	8
Section 1.14 “City”	8
Section 1.15 “City Council”	8
Section 1.16 “City General Plan” or “General Plan”	8
Section 1.17 “City Staff Representative”	8
Section 1.18 “Conflicting New Law”	8
Section 1.19 “Date of Execution”	8
Section 1.20 “Development Agreement Statute”	8
Section 1.21 “Development Agreement Ordinance”	8
Section 1.22 “Director”	9
Section 1.23 “Effective Date”	9
Section 1.24 “Existing Development Regulations”	9
Section 1.25 “Future Land Use Options”	9
Section 1.26 “Legal Action”	9
Section 1.27 “Legal Rights”	9
Section 1.28 “Minor Projects”	9
Section 1.29 “Mitigated Negative Declaration”	9
Section 1.30 “Mortgagee”	9
Section 1.31 “Municipal Code”	9
Section 1.32 “New Law”	9
Section 1.33 “Noise Working Group”	9
Section 1.34 “Notice”	9
Section 1.35 “Notice of Adverse Law or Decision”	10
Section 1.36 “Notice of Compliance”	10
Section 1.37 “Notice of Intent to Proceed”	10
Section 1.38 “Notice of Noncompliance”	10
Section 1.39 “Operating Memorandum”	10
Section 1.40 “Panel”	10
Section 1.41 “Parties”	10

Section 1.42	“PD Zoning”	10
Section 1.43	“Planning Board”	10
Section 1.44	“Processing Fees”	10
Section 1.45	“Project Approvals”	10
Section 1.46	“Property”	11
Section 1.47	“Standard Fees”	11
Section 1.48	“Stipulated Parking Area”	11
Section 1.49	“Street Realignment Parcel”	11
Section 1.50	“Street Realignment Project”	11
Section 1.51	“Subsequent Applications”	11
Section 1.52	“Term”	11
Section 1.53	“Trust Property”	11
Section 1.54	“Usable and Operational”	11
ARTICLE II GENERAL PROVISIONS.....		12
Section 2.1	Benefits of Agreement; Consideration.	12
Section 2.2	Effective Date.	12
Section 2.3	Term.	12
Section 2.4	Binding Effect of Agreement; Covenants Run with the Land.	12
Section 2.5	Ownership of Property.	12
ARTICLE III. DEVELOPMENT OF PROPERTY.....		13
Section 3.1	Vested Right to Develop; Applicable Land Use Regulations.	13
Section 3.2	Clarification of Airport Zone Regulations.	13
Section 3.3	Development Review Requirements and Procedures for Projects.	14
Section 3.4	Conflicting Enactments.	16
Section 3.5	Reservation of Authority.	16
Section 3.6	Subsequent Applications.	17
Section 3.7	No New Terminal.	19
Section 3.8	Additional Commitments on Development.	20
ARTICLE IV. OTHER OBLIGATIONS.....		22
Section 4.1	Street Realignment Project; Authority Financial Participation.	22
Section 4.2	Cooperation.	23
Section 4.3	Covenant of Cooperation.	25
Section 4.4	City Planning of Airport Property.	25
Section 4.5	No Effort to Change in State or Federal Law.	26
Section 4.6	Transient Parking Tax.	26
Section 4.7	Electrification of Ground Support Equipment.	26
Section 4.8	Good Faith Administration of Resolutions and Ordinances.	26
ARTICLE V. AMENDMENT; CANCELLATION; TERMINATION		27
Section 5.1	Amendment or Cancellation of Agreement; Operating Memoranda.	27
Section 5.2	Termination; Removal of Terms.	28

ARTICLE VI THIRD PARTY CHALLENGE	30
Section 6.1 Cooperation in the Event of Legal Challenge.	30
ARTICLE VII REVIEW FOR COMPLIANCE	31
Section 7.1 Annual Review.	31
Section 7.2 Notice of Compliance.	32
ARTICLE VIII. DEFAULT; DISPUTE RESOLUTION; REMEDIES DEFAULT	32
Section 8.1 Default.	32
Section 8.2 Remedies for Defaults.	34
Section 8.3 Remedies to Challenge Termination.	35
Section 8.4 Administrative Remedies.	35
ARTICLE IX. NOTICES.....	35
Section 9.1 Method of Notice.	35
ARTICLE X ASSIGNMENT.....	37
Section 10.1 Authority's Rights.	37
Section 10.2 Mortgagee Protection.	37
ARTICLE XI MISCELLANEOUS.....	38
Section 11.1 No Agency, Joint Venture or Partnership.	38
Section 11.2 Third Party Beneficiaries.	38
Section 11.3 Nonliability of City and Authority Officers, Employees and Consultants.	38
Section 11.4 Indemnity.	39
Section 11.5 No Waiver.	39
Section 11.6 Force Majeure and Acts of God.	40
Section 11.7 Severability.	40
Section 11.8 Further Assurances; Other Necessary Acts.	40
Section 11.9 Time is of the Essence.	41
Section 11.10 Construction.	41
Section 11.11 Captions and References.	41
Section 11.12 Recitals and Exhibits Incorporated; Entire Agreement.	41
Section 11.13 Governing Law; Litigation Matters.	41
Section 11.14 Instructions to City Clerk Regarding "Date of Execution" and "Effective Date".	42
Section 11.15 Recordation of Agreement.	42

**DEVELOPMENT AGREEMENT
BETWEEN THE CITY OF BURBANK
AND THE
BURBANK-GLENDALE-PASADENA
AIRPORT AUTHORITY RELATING
TO THE BOB HOPE AIRPORT**

THIS DEVELOPMENT AGREEMENT (the "Agreement") is entered into this 15th day of March, 2005, ("Date of Execution") by and between the CITY OF BURBANK, a municipal corporation organized and existing under the laws of the State of California (the "City") and the BURBANK-GLENDALE-PASADENA AIRPORT AUTHORITY, a California joint powers agency organized and existing pursuant to Government Code Section 6500 et. seq. ("the Authority"), and is acknowledged by THE BANK OF NEW YORK TRUST COMPANY, N.A., as Trustee ("the Trustee") pursuant to the Amended, Restated, Superseding and Combined Escrow and Trust Agreement dated March 15 2005. The Authority and the City are from time to time hereinafter referred to individually as a "Party" and collectively as the "Parties."

RECITALS

A. The purpose of this Agreement is to provide greater certainty and predictability in relations between the City and the Authority for many years and to provide for a mutually acceptable balance between the type and extent of projects that will meet the Authority's expected needs during the term of this Agreement and the desire of the Parties to avoid Authority actions and development that may, or could be perceived to, adversely affect the City, its residents and property owners in the vicinity of the Bob Hope Airport (formerly known as the Burbank-Glendale-Pasadena Airport) (the "Airport"). The balance between these interests and goals is provided in this Agreement by a list of permitted uses and projects and by a list of projects that will not be constructed during the term of the Agreement. These lists are also designed with the view that relations between the City and the Authority will be improved, and the likelihood of long-term relief from the impacts most offensive to the City will likewise be improved, if the City and the Authority can work together and cooperatively on achieving their respective goals. Furthermore, with greater certainty and predictability, the Parties will be able to focus their efforts on finding long-term solutions to unresolved issues of mutual interest to the Parties, such as seeking nighttime noise relief.

B. The Authority owns, operates and is the sponsor of the Airport. A majority of the Airport is located within the jurisdictional boundaries of the City; the balance of the Airport lies within the City of Los Angeles.

C. The Authority was formed in 1977 and currently operates the Airport pursuant to the "Amended and Restated Joint Exercise of Powers Agreement Among the Cities of Burbank, Glendale and Pasadena Creating an Agency to be Known as the Burbank-Glendale-Pasadena Airport Authority" entered into on September 15, 1991. Section 3 of that Joint Powers Agreement sets forth certain powers and duties of the

Authority, which include the powers “to acquire, operate, repair, maintain, improve and administer the Airport Facility, including without limitation, the acquisition, development, operation, repair, maintenance, improvement, renovation, construction, reconfiguration and administration of the properties and facilities thereof, and, in addition thereto, has all other powers enumerated in the [Joint Exercise of Powers Act, Government Code Section 6500 et. seq.] and California Government Code Section 6546.1, as the same now exists or may hereinafter be amended.”

D. The Authority has a legal or equitable interest in that certain real property, located in the City of Burbank as depicted on the map at Exhibit 1 attached hereto, and legally described in Exhibit 2 attached hereto (the “Property”).

E. In response to City concerns regarding various potential development projects at the Airport, the City adopted an Interim Development Control Ordinance (City Ordinance No. 3601) in August 2002, which according to its terms, temporarily restricted development of the Property. The City previously declared its intent to adopt new zoning to enforce its land use policies that could have affected the Property.

F. The Authority has prepared plans for projects that it believes are necessary or appropriate for the operation of the Airport and that it would like to pursue over the course of the next several years. These projects include the acquisition and use of the A-1 North Property for passenger vehicle parking; the completion of Taxiway D and the relocation of Parking Lot A. While the Authority does not have plans for other specific projects, and therefore such projects are not reasonably foreseeable at this time, the Authority contemplates that, over the next several years, additional projects may be necessary or appropriate for the continued safe and efficient operation of the Airport.

G. Considering operational, financial and other factors, the Authority does not believe that it is currently necessary or appropriate to pursue, and does not intend for the Term of this Agreement to pursue, certain other projects, including in particular the construction of a new passenger terminal, expansion of the existing passenger terminal, and expansion of the area dedicated to general aviation. In light of its own planning projections and recognizing that uncontrolled Airport development could create impacts of concern to the City and could engender undesirable conflict and further disputes between the Authority and the City, the Authority has offered to limit the extent of Airport development during the Term of this Agreement.

H. To strengthen the public planning process, encourage private participation in comprehensive planning and reduce the economic risk of development, the Legislature of the State of California adopted Government Code Section 65864 et seq. (the “Development Agreement Statute”), which authorizes the City to enter into an agreement with any person or entity having a legal or equitable interest in real property to establish certain development rights regarding the development of such property.

I. Pursuant to Government Code Section 65865, the City has adopted rules and regulations establishing procedures and requirements for consideration of

development agreements. Such rules and regulations are codified at Section 31-1997 et seq. of the Burbank Municipal Code (the "Development Agreement Ordinance"). This Agreement has been processed, considered and executed in accordance with the Development Agreement Ordinance.

J. The City has also adopted Sections 31-19118 et seq. of the Burbank Municipal Code (the "Planned Development Ordinance"), establishing the procedures and requirements for the consideration of, and establishment of, a planned development. The Planned Development Ordinance requires that the approval of a planned development be subject to a development agreement under the Development Agreement Ordinance. The Planned Development Ordinance sets forth the intent of the City Council in enacting the ordinance as an alternative process to accommodate major and unique developments, including those developments with combinations of uses and modified development standards, which would create a desirable, functional and community environment under the controlled conditions of a development plan.

K. It is the intent of the Authority to use and develop the Property in accordance with the terms of this Agreement, the Project Approvals (as defined herein) and the Existing Development Regulations (as defined herein). The A-1 North Property and a portion of the Adjacent Property will be developed as two separate planned developments under the Planned Development Ordinance, which developments may consist of those uses set forth in the "Conditions of Approval," which are defined below, and which are attached hereto as Exhibits 3 and 4. As required by the Planned Development Ordinance, the plans for use of the A-1 North Property and a portion of the Adjacent Property are set forth fully in the project reports ("Project Reports") and site plans ("Site Plans"), which are on file at the office of the City Planner. The Project Reports, the Site Plans and the Conditions of Approval collectively describe and govern the projects to be developed on the A-1 North Property and a portion of the Adjacent Property.

L. Simultaneously with or prior to the approval of this Agreement by the City, the Authority will have secured various land use, regulatory, statutory and other approvals, permits and other entitlements some of which are Project Approvals or Ancillary Approvals (as defined herein) but all of which relate in some manner to the accomplishment of the purposes of this Agreement as set forth in these Recitals, including without limitation the following:

(1) CEQA Compliance. At a duly noticed public hearing on October 27, 2004, the Authority Commission considered the information in the Mitigated Negative Declaration prior to taking action on its project approvals, found the Mitigated Negative Declaration to have been prepared in compliance with CEQA and in its independent judgment adopted the Mitigated Negative Declaration, adopted findings with respect to the environmental impacts of development on the Property, and imposed certain mitigation measures on its project approvals, which mitigation measures are incorporated herein by reference. At a duly noticed public hearing on January 18, 2005, and continued to January 25, 2005, the City Council considered the information in the

Mitigated Negative Declaration adopted by the Authority prior to taking action on the Project Approvals, and adopted findings with respect to the environmental impacts of development on the Property over which the City has jurisdiction.

(2) Public Utilities Code Section 21661.6(a) Approval (A-1 North). On January 25, 2005, following duly noticed public hearings convened pursuant to procedures adopted by the City, the City Council granted approval to the Authority under Public Utilities Code § 21661.6(a) to purchase and to use the A-1 North Property and the Street Realignment Parcel according to an approved plan.

(3) Public Utilities Code Section 21661.6(e) Approval (Adjacent). On January 25, 2005, following duly noticed public hearings convened pursuant to procedures adopted by the City, the City Council granted approval to the Authority under Public Utilities Code § 21661.6(e) to modify the plan to use the Adjacent Property.

(4) Planned Development Zoning. On February 1, 2005, following duly noticed public hearings and Planning Board review and recommendation, the City Council approved the Planned Development zone changes for the A-1 North Property, which includes the Street Realignment Parcel, and a portion of the Adjacent Property (collectively "PD Zoning"). The PD Zoning is consistent with the General Plan. A copy of Ordinance No. 3660 and Ordinance No. 3661 are attached hereto as Exhibits 5A and 5B and incorporated herein by this reference.

(5) Conditions of Approval. Certain Project Approvals were issued subject to "Conditions of Approval," which, for the purposes of this Agreement, shall also be considered included in any reference to the Project Approvals. The Conditions of Approval are attached hereto as Exhibits 3 and 4.

(6) Title Transfer Agreement Amendments. Title to and use of portions of the Property known as the Trust Property and Adjacent Property are subject to several agreements executed by the Parties in November 1999 and amended subsequently ("Title Transfer Agreements"). The Title Transfer Agreements have been amended to conform to this Agreement and to reflect the Parties current agreement with respect to, inter alia, title to and sale of the Trust Property. The following agreements have been amended:

(a) Escrow Agreement. On January 25, 2005, the City Council approved an amendment to and combined into a single agreement the Amended, Restated and Superceding Escrow Agreement By and Between the City of Burbank and the Burbank-Glendale-Pasadena Airport Authority dated November 16, 1999 and the Amended, Restated and Superceding Trust Agreement By and Between the City of Burbank, the Burbank-Glendale-Pasadena Airport Authority and Security Trust Company dated November 16, 1999.

(b) Trust Property Easement. On January 25, 2005, the City Council approved an amendment to the Grant of Easements, Declaration of Use Restrictions and Agreement for Trust Property By and Between the City of Burbank, the Burbank-Glendale-Pasadena Airport Authority and Security Trust Company dated November 23, 1999.

(c) Adjacent Property Easement. On January 25, 2005, the City Council approved an amendment of the Grant of Easements, Declaration of Use Restrictions and Agreement for Adjacent Property By and Between the City of Burbank and the Burbank-Glendale-Pasadena Airport Authority dated November 23, 1999.

(7) TEFRA Approval. On January 25, 2005, the City Council conducted the hearing and made findings required by the Tax Equity and Fiscal Responsibility Act (26 U.S. Code Section 147 (f)).

(8) Part 77 Ordinance. On February 1, 2005, the City Council adopted Ordinance No. 3663 establishing height limitations and procedural requirements for certain projects within the vicinity of the Airport.

(9) Sound Attenuation Ordinance. On February 1, 2005, the City Council adopted Ordinance No. 3662, adopting amendments to the City's Building Code to establish sound attenuation requirements on construction of structures in the vicinity of the Airport.

M. The City finds, and the City and the Authority mutually agree, that the terms and provisions of this Agreement are consistent with the General Plan and the Golden State Redevelopment Plan, as amended. Specifically, the permitted and planned use and development of the Property provide for orderly and controlled use and development consistent with the goals, policies, and other provisions of the General Plan and the Golden State Redevelopment Plan, as amended.

N. On December 6, 2004, following a duly noticed public hearing, the Planning Board adopted Resolution No. 2964, recommending that the City Council approve this Agreement.

O. On January 25, 2005, after a duly noticed public hearing, the City Council: (1) considered the Mitigated Negative Declaration; (2) made appropriate findings that the provisions of this Agreement are consistent with the General Plan; and (3) introduced Ordinance No. 3659 approving and authorizing the execution of this Agreement. On February 1, 2005, the City Council adopted Ordinance No. 3659. A copy of Ordinance No. 3659 is attached hereto as Exhibit 6.

P. For the reasons recited herein, the Authority and the City have determined that the use and development of the Property, including the use and development of the A-1 North Property and a portion of the Adjacent Property as Planned Developments, is

