

**FIRST AMENDMENT TO THE AGREEMENT
FOR AIRPORT BAGGAGE HANDLING
CONVEYOR SYSTEM SERVICES
BETWEEN THE CITY OF SAN JOSE
AND VANDERLANDE INDUSTRIES, INC.**

This First Amendment to the Agreement for Airport Baggage Handling Conveyor System Services between the City of San José (hereinafter “City”), a municipal corporation, and Vanderlande Industries, Inc., a Delaware corporation, authorized to conduct business in the State of California (hereinafter “Contractor”), is entered into on the date of execution by City (“Effective Date”).

RECITALS

WHEREAS, on October 29, 2014, City and Contractor entered into an agreement entitled “Agreement for Airport Baggage Handling Conveyor System Services between the City of San José and Vanderlande Industries, Inc.” (“Agreement”) for the operation and management of the Baggage Handling Conveyor System at the Norman Y. Mineta San José International Airport; and

WHEREAS, on October 29, 2015, City executed a notice of compensation adjustment to revise the compensation rates and increase the maximum amount of compensation to \$10,702,431; and

WHEREAS, on April 6, 2016, City and Contractor entered into Change Order #1 to add additional services and increase the maximum amount of compensation to \$10,707,132; and

WHEREAS, on August 19, 2016, City and Contractor entered into Change Order #2 to add additional deliverables and increase the maximum amount of compensation to \$10,837,893; and

WHEREAS, on November 3, 2016, City executed a second notice of compensation adjustment to revise the compensation rates and increase the maximum amount of compensation to \$11,115,498; and

WHEREAS, City and Contractor desire to amend the Agreement to increase compensation by \$872,777 to a revised not-to-exceed maximum compensation of \$11,988,275 for the initial five-year period, for additional services as described in Fourth Revised Exhibit B, entitled "Compensation";

NOW, THEREFORE, the parties agree to amend the Agreement as follows:

SECTION 1. Section 5 of the Agreement, entitled "Compensation", is amended to read as follows:

"City shall pay Contractor an amount not to exceed eleven million, nine hundred eighty-eight thousand, two hundred seventy-five dollars (\$11,988,275) during the initial five-year term ("Maximum Compensation) as per the agreed to Scope of Services in Exhibit A. The terms, rate and schedule of payment are set forth in the attached Fourth Revised Exhibit B, entitled "Compensation.""

SECTION 2. Exhibit A Section 5 entitled "Operational Requirements and Services," Subsection 5.1.3, is amended to read as follows:

"Contractor shall be responsible for operations and must provide onsite support during all Active Commercial Carrier hours of operation, and the level of service for the BHS will be coordinated with Airport, TSA and user Airlines. Current Commercial Carrier operations are performed between the hours of 0400 to 2400 (military time). On occasion, special events may necessitate extending or reducing system operation beyond normal Commercial Carrier operating hours or altering the mode of operation or as stipulated by Airport. In the event this occurs, there will be no change in compensation. However, in the event there is a substantive change in the passenger baggage volume going through the BHS (such as changes to airline schedule, or additions and reductions of flights or airlines), both parties shall have the ability to negotiate to adjust the compensation accordingly. Contractor also will be required to schedule and perform some Preventative Maintenance and Repair Activities which impact operation during curfew/non-operational hours so as not to impact airplane operations. See Exhibit A-1, Preventative Maintenance Inspection List."

SECTION 3. Exhibit A Section 6.9, "Hours Available for Maintenance Functions" is amended to read as follows:

"6.9.1. BHS maintenance shall be scheduled in such a way that the interference with, or effect upon, the operation of the BHS is minimized to the greatest extent possible. To minimize operational impact to the user Airlines and/or TSA, Contractor shall carry out the maintenance of BHS equipment at night and during

off-peak periods. Off-peak, curfew period maintenance shall be coordinated with the Airport.

6.9.2. The current normal hours of operation in the Terminal A & B bag rooms are 4:00 a.m. to 12:00 a.m.

6.9.3. The current shifts for Contractor's employees to perform maintenance are as follows.

6.9.3.1. First Shift (Morning): 4:00 a.m. – 12:30 p.m., and 7:30 a.m. – 4:00 p.m.

6.9.3.2. Second Shift (Swing shift): 12:30 p.m. – 8:30 p.m., and 4:00 p.m. – 12:00 p.m.

6.9.3.3. Third Shift (Evening): 10:00 p.m. – 5:30 a.m.

- The third shift shall include two millwrights. The millwrights shall perform preventative, corrective, and predictive maintenance four days per week.

The above schedule is approximate and subject to change to best support the operational and maintenance needs of the System.”

SECTION 4. Exhibit A Section 9.3, entitled “Compensation for Repair and Replacement,” Subsection 9.3.1.1, is amended to read as follows:

“9.3.1.1. Direct Labor: Actual net cost of the Contractor labor as provided in the compensation exhibit.”

SECTION 5. Third Revised Exhibit B, “Compensation” is amended to read as shown in Fourth Revised Exhibit B, attached and incorporated into this First Amendment.

SECTION 6. All of the terms and conditions of the original Agreement not specifically modified by this First Amendment shall remain in full force and effect.

WITNESS THE EXECUTION HEREOF on the day and year set forth beneath the respective names.

APPROVED AS TO FORM:

City of San José,
a municipal corporation

Rosa Tsongtaatarii
Sr. Deputy City Attorney
Date: _____

By _____
Name: Mark Giovannetti
Title: Deputy Director, Finance

Date: _____

Vanderlande Industries, Inc.,
a Delaware corporation registered to do
business in the State of California

By _____
Name: Wes Goode
Title: Vice President
Date:

By _____
Name: Bart Witteveen
Title: Chief Financial Officer
Date:

Fourth Revised Exhibit B Compensation

1. COMPENSATION

City shall pay Contractor for completed scheduled MRO services as set forth in the Scope of Services (Exhibit A) of this Agreement at the monthly rates listed below in Fifth Revised Table B1- Payment Schedule. Pricing is inclusive of all costs (labor, equipment, materials, training, travel, overhead, profit, insurance, taxes, employee benefits, ancillary personnel, etc.) incurred or to be incurred by Contractor, with the exception of the cost of spare parts.

Fifth Revised Table B-1 Payment Schedule

	Monthly Cost	Extended Cost 2014/2015	Extended Cost 2015/2016	Estimated Cost 2016/2017*	Estimated Cost 2017/2018*	Estimated Cost 2018/2019*
Terminal A (Outbound Only)						
Operation Costs	\$37,769	\$453,228	\$461,948*	\$494,700*	\$494,700*	\$494,700*
Maintenance Costs (as updated by Amendment #1)	\$31,474	\$377,688	\$384,955*	\$456,458*^	\$544,854*^	\$544,854*^
Miscellaneous Costs	\$3,147	\$37,764	\$38,491*	\$41,220*	\$41,220*	\$41,220*
Total (Terminal A)	\$72,390	\$868,680	\$885,394*	\$992,378*^	\$1,080,774*^	\$1,080,774*^
Terminal B (Inbound & Outbound)						
Operation Costs	\$37,769	\$453,228	\$461,948*	\$494,700*	\$494,700*	\$494,700*
Maintenance Costs (updated by Amendment #1)	\$44,064	\$528,768	\$538,942*	\$638,959*^	\$762,547*^	\$762,547*^
Miscellaneous Costs	\$3,147	\$37,764	38,491*	41,220*	41,220*	41,220*
Total (Terminal B)	\$84,980	\$1,019,760	\$1,039,381*	\$1,174,879*^	\$1,298,467*^	\$1,298,467*^
Technical Support for BHS Software	\$1,410	\$16,920	\$17,246*	\$18,469*	\$18,469*	\$18,469*
Subtotal (Terminals A & B and Technical Support)	\$158,780	\$1,905,360	\$1,942,021*	\$2,185,726*^	\$2,397,710*^	\$2,397,710*^
Additional Services (Change Order #1)			\$4,701			
Additional Services (Change Order #2)			\$126,060			

	Monthly Cost	Extended Cost 2014/2015	Extended Cost 2015/2016	Estimated Cost 2016/2017*	Estimated Cost 2017/2018*	Estimated Cost 2018/2019*
Implementation Costs (onetime cost)		\$28,987				
Spare Parts		\$200,000	\$200,000	\$200,000**	\$200,000**	\$200,000**
Grand Total		\$2,134,347	\$2,272,782	\$2,385,726*^	\$2,597,710*^	\$2,597,710*^
Maximum amount of compensation for the initial five-year term:					\$11,988,275	

*Subject to annual adjustment.

**Spare parts to be reimbursed as required. Spare parts reimbursement shall not exceed \$200,000 annually.

^ Reflect the costs of two additional millwrights in the third shift beginning July 1, 2017, and continuing through years 2017/2018 and 2018/2019 per Amendment #1.

2. ANNUAL ADJUSTMENTS

The Contractor may request adjustments to the compensation rates on each one-year anniversary during the initial five-year term of the agreement, plus any one-year options to renew the agreement after the initial term. The Contractor must demonstrate to the satisfaction of the City that a price increase is warranted. Price adjustments are subject to City's approval. Increases shall not exceed 3% annually, except to reflect an increase to the City's Living/Prevailing Wage that is greater than 3%.

3. MAXIMUM COMPENSATION

The maximum amount of compensation to be paid to Contractor, including both payment for Maintenance, Operations and Repair Services, and Reimbursable spare parts, shall not exceed \$11,988,275 for the initial five-year term. Any additional services requested by the City that would exceed the preceding maximum amount will be addressed in accordance with the Change Order Procedures. No additional services will be performed unless both parties execute a Change Order (Exhibit C) outlining the services requested and the compensation agreed for such services.

4. ADDITIONAL SERVICES

In the event the City requires additional services, Contractor shall provide a written quotation, at no cost to the City, of the type of Additional Service(s) requested and the time required for completion. Upon receiving City's written approval to proceed in the form of a signed Change Order (Exhibit C) with the Additional Service(s), Contractor shall perform the service(s) at a time mutually agreed upon by all parties, and according to the hourly rates specified below.

Table B2- Additional Services (as may be required)

Repair & Replacement Labor	Straight Time Hourly Rate 1 st Shift	Straight Time Hourly Rate 2 nd Shift	Straight Time Hourly Rate 3 rd Shift	Overtime Hourly Rate 1 st Shift	Overtime Hourly Rate 2 nd Shift	Overtime Hourly Rate 3 rd Shift	Weekend/ Holiday Hourly Rate
Electrician/ Inside Wireman	\$132.05*	\$146.48*	\$158.25*	\$174.25*	\$195.65*	\$213.11*	\$220.16*
Carpenter/ Millwright	\$106.94*	\$113.08*	\$117.04*	\$138.67*	\$147.88*	\$154.55*	\$170.93*
Laborer	\$73.99*	\$78.58*	\$86.28*	\$96.20*	\$103.10*	\$114.64*	\$125.55*
Control Room Operator	\$18.32			\$27.48			

*Subject to annual adjustment.

5. MONTHLY INVOICE

5.1 Contractor shall submit to the Airport a monthly invoice within fifteen (15) working days of the last day of each month, in arrears, for payment for services performed pursuant to this Agreement. The monthly invoice shall include a statement of work performed during the month. The Airport shall review the monthly invoice submitted by Contractor and within ten (10) working days of receipt of the invoice, the Airport shall notify Contractor of any discrepancies or deficiencies in said invoice.

5.2 A monthly System Performance Report for the invoice period must accompany the invoice.

6. PAYMENT TO CONTRACTOR

Except as otherwise provided in this Agreement, the City shall make monthly payments within thirty (30) calendar days from the City's approval of Contractor's invoice. If City makes any payments or incurs any costs for which City is entitled to reimbursement from any payment otherwise due to Contractor from City, City may deduct such reimbursement from any payment otherwise due to Contractor from City. City shall submit to Contractor written documentation in support of such deduction upon Contractor's request. In the event City does not deduct such reimbursement from Contractor's payment but submits to Contractor an invoice for reimbursement, Contractor shall reimburse City within thirty (30) days of receipt of such invoice.

7. SPARE PARTS REIMBURSEMENT

Contractor shall be entitled to seek reimbursement for the purchase of spare parts made on the City's behalf in support of this Agreement and on a monthly basis. Contractor shall procure spare parts and components from suppliers at competitive pricing and pass on its volume purchasing power savings to the Airport. Reimbursement will be based on a cost plus model, where Contractor will charge no more than a fifteen (15) percent markup price over cost. In order to be reimbursed, Contractor shall submit prior approval for the purchase, a quote, a detail itemization of parts purchased, proof of cost and source documentation that supports the purchase. Contractor must submit the aforementioned

documentation along with its monthly invoices. The billing for the reimbursement of spare parts must be itemized separately from MRO services. The City will pay the spare parts reimbursement along with its monthly obligation to pay for the services under this Agreement. For parts and labor that are under warranty from the OEM, Contractor shall seek reimbursement directly from the OEM under the terms of the warranty.