



March 12, 2020

CALL AND NOTICE OF THE REGULAR MEETING OF THE
LEGAL, GOVERNMENT AND ENVIRONMENTAL AFFAIRS COMMITTEE
OF THE
BURBANK-GLENDALE-PASADENA AIRPORT AUTHORITY

NOTICE is hereby given that the regular meeting of the Legal, Government and Environmental Affairs Committee will be held Monday, March 16, 2020, at 9:30 a.m., or immediately following the Commission meeting, in the Burbank Room of Hollywood Burbank Airport, 2627 N. Hollywood Way, Burbank, California 91505.

Terri Williams, Board Secretary
Burbank-Glendale-Pasadena Airport Authority

REGULAR MEETING
OF THE
LEGAL, GOVERNMENT AND ENVIRONMENTAL AFFAIRS COMMITTEE

Burbank Room
Monday, March 16, 2020
9:30 a.m., or Immediately Following
the Conclusion of the
Commission Meeting

As a result of the convening of this meeting of the Legal, Government and Environmental Affairs Committee, each Committee member in attendance is entitled to receive and shall be provided \$200.



The public comment period is the opportunity for members of the public to address the Committee on agenda items and on airport-related non-agenda matters that are within the Committee's subject matter jurisdiction. At the discretion of the presiding officer, public comment on an agenda item may be presented when that item is reached.

Members of the public are requested to observe the following decorum when attending or participating in meetings of the Committee:

- *Turn off cellular telephones and pagers.*
- *Refrain from disorderly or boisterous conduct, including loud, threatening, profane, or abusive language, clapping, whistling, stamping, or other acts that disrupt or otherwise render unfeasible the orderly conduct of the meeting.*
- *If you desire to address the Committee during the public comment period, fill out a speaker request card and present it to the Board Secretary.*
- *Confine remarks to agenda items or to airport-related non-agenda matters that are within the Committee's subject matter jurisdiction.*
- *Limit comments to five minutes or to such other period of time as may be specified by the presiding officer.*



The following activities are prohibited:

- *Allocation of speaker time to another person.*
- *Video presentations requiring use of Authority equipment.*



Any disclosable public records related to an open session item on a regular meeting agenda and distributed by the Authority to the Committee less than 72 hours prior to that meeting are available for public inspection at Hollywood Burbank Airport (2627 N. Hollywood Way, Burbank) in the administrative office during normal business hours.



In accordance with the Americans with Disabilities Act of 1990, if you require a disability-related modification or accommodation to attend or participate in this meeting, including auxiliary aids or services, please call the Board Secretary at (818) 840-8840 at least 48 hours prior to the meeting.

A G E N D A

Monday, March 16, 2020

1. Approval of Agenda

2. Public Comment

3. Approval of Minutes

a. February 18, 2020

[See page 1]

4. Contracts and Leases

a. Annual Review and Adjustment of Noise Violation Fines

- Staff report attached

[See page 3]

Staff seeks a Committee recommendation to the Commission that the monetary fines for violations of Rules 8 and 9 be adjusted for inflation based on the percentage changes in the Consumer Price Index.

b. Fourth Amended and Restated TBI Airport Management Contract

- Staff report attached

[See page 5]

The General Counsel seeks a recommendation from the Legal, Government and Environmental Affairs Committee to the Commission for approval of a fourth amended and restated airport management services agreement ("Fourth Management Contract") with TBI Airport Management, Inc. The proposed Fourth Management Contract amends and restates the third amended and restated airport management services agreement to: (i) extend the term by 10 years; (ii) redefine cost sharing for legal and professional fees and costs associated with Airport-related collective bargaining, employee grievances, and litigation; (iii) revise the supplemental employment practices liability insurance requirement; (iv) remove certain outdated provisions; and (v) make clerical revisions.

5. Discussion Item

a. State Legislative Update

- No staff report attached

Included in the agenda package is a State of California Legislative Status Report prepared by Arnold and Associates. Kristi Foy from Arnold and Associates will provide a state legislative update as follows:

1. Sacramento Environment

2. Key Bills

- a. SB 988 (McGuire) – Aviation Fuel**
- b. SB 1044 (Allen) – Firefighting equipment and foam: PFAS chemicals**
- c. AB 2261 (Chau) – Facial recognition technology**
- d. AB 3041 (Low) – Peer-to-peer car sharing**

3. Sacramento Legislative Visit – April 14th

4. 2020 Election

6. Closed Session

a. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Significant Exposure to Litigation (California Government Code Section 54956.9(d)(2)): One potential case. Facts and Circumstances: Los Angeles Regional Water Quality Control Board Water (LARWQCB) Water Code Section 13267 Order WQ2019-0005-DWQ

7. Items for Information

a. Committee Pending Items

[See page 8]

8. Adjournment

**MINUTES OF THE SPECIAL MEETING OF THE
LEGAL, GOVERNMENT AND ENVIRONMENTAL AFFAIRS COMMITTEE
BURBANK-GLENDALE-PASADENA AIRPORT AUTHORITY**

TUESDAY, FEBRUARY 18, 2020

A special meeting of the Legal, Government and Environmental Affairs Committee was called to order on this date in the Burbank Room, 2627 N. Hollywood Way, Burbank, California, at 11:00 a.m., by Chairman Wiggins.

AB 23 Disclosure: The Assistant Board Secretary announced that, as a result of the convening of this meeting of the Legal, Government and Environmental Affairs Committee, each Committee member in attendance is entitled to receive and shall be provided \$200.

ROLL CALL

Present: Commissioners Wiggins, Madison and Agajanian

Absent: None

Also Present: Staff: Frank Miller, Executive Director

Airport Authority Counsel: Terence R. Boga of
Richards, Watson and Gershon

1. Approval of Agenda The agenda was approved as presented.

2. Public Comment There were no public speakers.

3. Approval of Minutes

a. February 3, 2020 Commissioner Wiggins moved approval of the minutes of the February 3, 2020, meeting, seconded by Commissioner Agajanian. The minutes were approved (2-0, one abstention).

4. Contracts and Leases

a. TBI Airport Management Contract Amendment

The General Counsel sought Committee recommendation to the Commission for approval of a sixth amendment to the airport management services agreement ("Management Contract") with TBI Airport Management, Inc. The contract amendment is intended to address ambiguities in the Management Contract with respect to the parties' financial responsibility for expenses related to union negotiations, collective bargaining agreement implementation, and special counsel legal fees.

The Authority and TBI have amended the Management Contract five times to date and the Committee has proposed that in lieu of a sixth amendment, that the General Counsel prepare a new contract that will: (i) have a 10-year term, resulting in a June 30, 2030 expiration date; (ii) redefine cost-sharing for legal and professional fees and costs associated with Airport-related collective bargaining, employee grievances, and litigation; and (iii) revise the employment practices liability insurance requirement.

Motion

Commissioner Madison moved the General Counsel recommendation, seconded by Commissioner Wiggins.

Motion Approved

The motion was approved (3-0).

5. Items for Information

a. Committee Pending Items

Staff informed the Committee of future pending items that will come to the Committee for review.

6. Adjournment

There being no further business, the meeting was adjourned at 11:15 a.m.

**STAFF REPORT PRESENTED TO THE
BURBANK-GLENDALE-PASADENA AIRPORT AUTHORITY
LEGAL, GOVERNMENT AND ENVIRONMENTAL AFFAIRS COMMITTEE
MARCH 16, 2020**

**ANNUAL REVIEW AND ADJUSTMENT OF
NOISE VIOLATION FINES**

SUMMARY

Staff seeks a Legal, Government and Environmental Affairs Committee (“Committee”) recommendation to the Commission that it authorizes an increase to the noise fines associated with certain restricted operations as detailed in Rules 8 and 9 as described below, in accordance with the annual adjustment of noise violation fines required by Resolution No. 382.

BACKGROUND

Resolution No. 382 was adopted by the Commission on March 20, 2003, which requires noise violation fines contained in Rules 8 and 9 be adjusted annually for inflation based on percentage changes in the Consumer Price Index (“CPI”). The January index is used to calculate the annual adjustment and the new rates become effective each April 1st.

Rule 8 prohibits the following activities between 10 p.m. and 7 a.m.

- Intersection takeoffs
- “Touch and go” landings
- Maintenance run-ups
- Flight training operations
- Practice approaches

The current first-time fine is \$1,555 and the fine for subsequent violations is \$2,259.

Rule 9 prohibits the operation of certain “noisy” aircraft between 10 p.m. and 7 a.m., pursuant to FAA Advisory Circular 36-1H. The current fine for each violation is \$4,522.

The 2012 FAA Modernization and Reform Act required owners/operators of aircraft that weigh less than 75,000 pounds that do not meet FAA Stage 3 noise levels to modify or retire their aircraft by December 31, 2015. This statute has been fully implemented; however, existing Airport Noise Rules do include weight limits provided by Gulfstream that are applicable to their Models G-IIIB and G-III that are necessary in addition to Stage 3 hush kits in order for them to be in compliance. Currently, there is one Gulfstream III aircraft based out of Atlantic Aviation, which is out of service and did not operate in 2019. The aircraft is on the market for sale and it is being evaluated to be repositioned to Chino. However, beyond this aircraft, this rule also applies to all itinerant aircraft operations with this model aircraft.

In 2019, Staff investigated 13 operations from general aviation operators for suspected violations. After further investigation, they were all determined to be in compliance with the Airport Noise Rules, for which none had exceeded the gross weight limit of 55,500 for a G-III aircraft operating during the nighttime hours.

JANUARY CPI INDEX LEVEL

The January 2020 CPI for All Urban Consumers in the Los Angeles, Long Beach and Anaheim area is 277.75 according to the U.S. Bureau of Labor Standards. This level represents an approximate increase of 3.07% when compared to the January 2019 index reading of 269.47. Applying this CPI value to the current fines results in the following revised fine levels for Rule 8 and Rule 9 violations:

- Rule 8: \$1,603 (first violation)
- Rule 8: \$2,328 (subsequent violations)
- Rule 9: \$4,661 (each violation)

STAFF RECOMMENDATION

Staff seeks a Committee recommendation to the Commission that the monetary fines for violations of Rules 8 and 9 be adjusted as detailed in this staff report.

**STAFF REPORT PRESENTED TO THE
BURBANK-GLENDALE-PASADENA AIRPORT AUTHORITY
LEGAL, GOVERNMENT AND ENVIRONMENTAL AFFAIRS COMMITTEE
MARCH 16, 2020**

**FOURTH AMENDED AND RESTATED
TBI AIRPORT MANAGEMENT CONTRACT**

SUMMARY

The General Counsel seeks a recommendation from the Legal, Government and Environmental Affairs Committee ("Committee") to the Commission for approval of a fourth amended and restated airport management services agreement ("Fourth Management Contract") with TBI Airport Management, Inc. ("TBI"). The proposed Fourth Management Contract amends and restates the third amended and restated airport management services agreement ("Third Management Contract") to: (i) extend the term by 10 years; (ii) redefine cost sharing for legal and professional fees and costs associated with Airport-related collective bargaining, employee grievances, and litigation; (iii) revise the supplemental employment practices liability ("EPL") insurance requirement; (iv) remove certain outdated provisions; and (v) make clerical revisions.

BACKGROUND

Since its acquisition of the Airport in 1978, the Authority has utilized an independent contractor for management services and personnel. Currently, this arrangement is structured through the Third Management Contract with TBI. That agreement has a 12-year base term expiring on June 30, 2020, and it afforded the Authority one 10-year extension option that could be exercised up to January 1, 2020.

The Authority and TBI have amended the Third Management Contract five times to date. In 2008, the first amendment addressed severance payments for certain TBI personnel. In 2013, the second amendment established a pool for the Authority's reimbursement of unbudgeted legal fees incurred by TBI in the operation and management of the Airport. In 2015, the third amendment added aircraft rescue and firefighting ("ARFF") services to the scope of services and made associated contract revisions. In 2016, the fourth amendment provided for the transition of the former Executive Director to the position of Director, Development Services. Finally, in 2017, the fifth amendment revised the minimum staffing requirement for ARFF services and updated the lists of Senior Staff, additional management, and supervisory personnel.

On February 18, 2020, the Committee considered a proposed sixth amendment to the Third Management Contract. The Committee decided that, rather than amending the Third Management Contract for the sixth time, it would be preferable for the Authority and TBI to execute a Fourth Management Contract.

PROPOSED FOURTH MANAGEMENT CONTRACT

The proposed Fourth Management Contract is attached as Exhibit A. The proposed Fourth Management Contract consolidates into a single document the Third Management Contract as revised by its five amendments. Additionally, the proposed Fourth Management Contract will: (i) extend the term by 10 years; (ii) redefine cost sharing for legal and professional fees and

costs associated with Airport-related collective bargaining, employee grievances, and litigation; (iii) revise the insurance requirement; (iv) remove certain outdated provisions; and (v) make clerical revisions. A redline showing the differences between the Third Management Contract (inclusive of its five amendments) and the proposed Fourth Management Contract is attached as Exhibit B.

The key new provisions of the proposed Fourth Management Contract are discussed below.

A. Term Extension

As noted above, the Third Management Contract currently is set to expire on June 30, 2020. The proposed Fourth Management Contract will change the expiration date to June 30, 2030. There will be no change to the existing provisions that allow the Authority to terminate without cause on six months' notice; that allow the Authority to terminate without cause on less than six months' notice with a termination payment to TBI; and that allow TBI to terminate without cause on one year's notice.

B. Cost Sharing

Over the years ambiguities in the Third Management Contract, and situation-specific positions taken by the Authority and TBI with respect to those ambiguities, have led to disagreements regarding the extent to which each party is responsible for expenses related to union negotiations, collective bargaining agreement implementation, and special counsel legal fees. The proposed Fourth Management Contract seeks to eliminate the ambiguities and establish an equitable cost sharing for TBI's legal and professional fees and costs associated with Airport-related collective bargaining, employee grievances, and litigation. Among other things, the new cost sharing plan will replace the existing arrangement in which TBI is entitled to reimbursement for up to \$5,000 in unbudgeted legal fees and expenses per year. The table below summarizes the new cost sharing plan.

<u>Subject</u>	<u>Description</u>
Collective Bargaining	The Authority will reimburse TBI for reasonable attorney and professional negotiator fees and costs incurred in connection with negotiation or renegotiation of union contracts for TBI employees at the Airport. The Authority also will reimburse TBI for reasonable costs related to any necessary attendance at such negotiations by TBI's management personnel.
Employee Grievance	The Authority will reimburse TBI for reasonable attorney fees and costs incurred in connection with union grievances filed by TBI employees at the Airport. If a court or arbitrator determines that TBI is liable for one or more claims underlying a grievance, then, at the Authority's option, the reimbursement paid by the Authority shall either: (i) be deducted from a future payment owed to TBI; or (ii) be refunded by TBI.
Litigation	The Authority shall reimburse TBI for reasonable attorney and expert witness fees and costs incurred in connection with litigation filed by a third party against TBI arising from TBI's operations at the Airport. The Authority also shall reimburse TBI for 50% of any

settlement payment made by TBI provided that the Authority gave prior approval of the settlement. The Authority will not be required to reimburse TBI for any amounts for which TBI is reimbursed by a third party or by insurance. If a court or arbitrator determines that TBI is liable for one or more causes of action in litigation filed by a third party, then, at the Authority's option, the reimbursement paid by the Authority shall either: (i) be deducted from a future payment owed to TBI; or (ii) be refunded by TBI.

TBI has indicated that its management fee would need to be increased in order for it to accept sole responsibility for these fees and costs. Because these fees and costs are intermittent and generally are unpredictable in amount, it is anticipated that the new cost sharing plan will be more financially prudent for the Authority than giving TBI a management fee increase that would be paid regardless of collective bargaining needs or the occurrence of employee grievances or litigation.

C. Employment Practices Liability Insurance

Currently, the Third Management Contract requires the Authority to reimburse TBI for supplemental EPL insurance with coverage in the amount of \$250,000 per occurrence and annual aggregate. Additionally, for any year in which TBI is unable to obtain EPL insurance, the Authority is required to increase TBI's management fee by \$25,000.

The proposed Fourth Management Contract will require the Authority to pay a pro rata share, based on the number of TBI employees at the Airport in relation to the total number of TBI employees, of TBI's costs to maintain EPL insurance. If TBI is unable to obtain EPL insurance with a \$50,000 deductible, then the Authority shall reimburse TBI for 50% of amounts paid toward the deductible in excess of \$50,000. In any year in which TBI is unable to obtain EPL insurance, the Authority will increase TBI's management fee by \$25,000 for that year.

RECOMMENDATION

The General Counsel recommends that the Committee recommend to the Commission approval of the proposed Fourth Management Contract with TBI.

EXHIBITS

- A. Proposed Fourth Management Contract
- B. Redline

**BURBANK-GLENDALE-PASADENA AIRPORT AUTHORITY
LEGAL, GOVERNMENT AND ENVIRONMENTAL AFFAIRS COMMITTEE
MARCH 16, 2020**

COMMITTEE PENDING ITEMS

Future

1. Award of Contract – Task Force Public Outreach Support
2. Approval – Strategic Planning