

SETTLEMENT AGREEMENT

THIS AGREEMENT entered into by and between the CITY OF OAKLAND, a municipal corporation, acting by and through its Board of Port Commissioners (hereinafter "PORT"), the CITY OF ALAMEDA, a municipal corporation (hereinafter "CITY"), HARBOR BAY ISLE ASSOCIATES, a partnership (hereinafter "HBI") composed of BAY FARM ISLAND, INC., a corporation, (wholly owned by UTAH INTERNATIONAL INC. (hereinafter "UTAH"), a corporation) and DORIC DEVELOPMENT, INC. (hereinafter "DORIC"), a corporation, RECLAMATION DISTRICT NO. 2105 (hereinafter "DISTRICT"), UTAH and DORIC.

R E C I T A L S:

WHEREAS, HBI owns approximately 915 acres of undeveloped real property situated on Bay Farm Island within the City of Alameda, County of Alameda, State of California, approximately 591 acres of which property are presently zoned for residential and neighborhood commercial development and approximately 324 acres of which property are presently zoned for commercial-manufacturing development; and

WHEREAS, PORT owns and operates the Metropolitan Oakland International Airport (hereinafter "Airport") most of which is situated in the City of Oakland and some of which is situated in the City of Alameda, near the HBI property, the location and relationship of said Airport

and HBI property being set forth on the map attached hereto as Exhibit A and by this reference made a part hereof;
and

WHEREAS, DISTRICT includes approximately 942 acres of land on Bay Farm Island, approximately 915 acres of which are owned by HBI, said District being a local governmental agency formed in 1964 pursuant to California Water Code Sections 50000 et seq., and said DISTRICT being responsible for, among other things, and having undertaken and having planned to undertake improvements for, the lagoon-drainage system necessary to accommodate HBI's proposed residential development on Bay Farm Island, and improvements for the drainage necessary for most of the highlands of Bay Farm Island; and

WHEREAS, the PORT has had a major dispute concerning land uses on Bay Farm Island within the boundaries of CITY and the relation of such land uses to the present and future use of the Airport and the noise impacts of said Airport's operations now and in the future upon the existing and future residents of CITY, such dispute having resulted in the commencement of major litigation between CITY and HBI on the one hand and PORT on the other hand; and

WHEREAS, it is PORT's position that no existing or foreseeable Airport operations create any unnecessary safety hazard for CITY's present or future residents, that based upon presently available information residential use of portions of HBI's land presently zoned residential is not now and will not be in the reasonably foreseeable future proper or compatible with reasonably necessary

Airport operations due to adverse effects of noise created by such operations, but that for purposes of the State of California Noise Standards as presently promulgated, (Title 4, California Administrative Code, Subchapter 6, Section 5014) a noise easement such as provided for in Paragraph 3 and Exhibit B of this Agreement renders residential use subject to said easement a compatible land use; and

WHEREAS, it is the position of HBI that based upon presently available information the Airport will not achieve the expected growth identified in PORT's Master Plan outline, Exhibit C attached hereto, that residential use of no portion of HBI residentially zoned land is now or will be in the reasonably foreseeable future improper or incompatible with reasonably necessary Airport operations, that even with increased passenger or freight volumes airport noise impacts will contract rather than expand, that in the event that aircraft at the Airport create any adverse noise impacts on HBI's property compensation for such adverse noise impacts is due HBI from PORT, and further that PORT could minimize noise and safety impacts on HBI's land and CITY's residents by adopting certain noise abatement procedures; and

WHEREAS, CITY's position with respect to PORT's Airport operations and HBI's proposed development on Bay Farm Island is now in the process of formulation by way of CITY's present and ongoing review and revision of its General Plan and General Plan elements regarding HBI's proposed residential development, and CITY has responsibility

to protect residents of CITY from unnecessary noise impacts and safety hazards generated from existing and future Airport operations; and

WHEREAS, in order to accommodate the respective positions of the parties hereto, this Agreement is entered into by said parties as a compromise, the parties intending through this Agreement to terminate all litigation among themselves, settle all existing disputes on a permanent basis and work together to achieve joint goals of providing for reasonable present and future Airport operations and the reasonable growth of Airport operations while avoiding future incompatible use of land near the Airport, minimizing impacts upon existing and future residents of CITY and providing for the orderly development of HEI's land; and

WHEREAS, the parties hereto desire to make the terms of this Agreement the official position of each party regarding the disputes that are being settled;

NOW, THEREFORE, the parties hereto agree as follows:

1. LITIGATION. All existing litigation among the parties shall be terminated by stipulated judgment or dismissal as follows:

A. ACTION NO. 450083-0 - ALAMEDA COUNTY SUPERIOR COURT. The parties hereto shall, with the consent of the Court, waive findings of fact and conclusions of law and stipulate to the entry of judgment in substantially the form attached hereto as Exhibit D. A copy of this Agreement shall be attached to said judgment and shall

be expressly incorporated into and made a part of said judgment. Said judgment shall provide for the following:

(1) That the CITY shall complete review and adoption of its entire new General Plan including all mandatory General Plan elements, except for a new Conservation Element, as soon as that can reasonably be accomplished but not later than June 1, 1977.

(2) That the existing General Plan was and is an adequate plan for purposes of developing all areas within CITY except those areas presently zoned residential south of the line designated on Exhibit E. Said existing general plan and its elements are adequate for purposes of development approvals north of said line until a new General Plan, or a particular element thereof, is adopted to replace the existing General Plan or any portion thereof, at which time the new General Plan or element thereof shall become the basis for development of all areas within CITY.

(3) That the A.D. Little environmental impact report presently satisfies the requirements of the California Environmental Quality Act, for purposes of all development of HBI's properties except for residential subdivision or planned development approvals by CITY for residential lots south of the line designated on Exhibit E, for which approvals CITY shall determine said report's adequacy after CITY adopts a new general

plan. CITY may, at its discretion, amend, supplement or prepare a new environmental impact report on any project not yet submitted to CITY or resubmitted to CITY.

(4) That CITY's Zoning Ordinance No. 1715 N.S. is valid.

(5) That all previous actions of the Planning Board and City Council and all other departments of CITY are valid and adequate where such actions pertained to approvals and permits granted to HBI for its development.

(6) That HBI shall not commence residential construction on residential lots, nor seek to obtain planned development approvals or subdivision approvals for residential lots or construction on said residential lots within the area south of the line designated on Exhibit E attached hereto, prior to the expiration of two (2) years from and after the effective date of this Agreement or prior to the date on which PORT exercises the option to purchase a noise easement as provided for in Paragraph 3 of this Agreement, whichever date shall first occur.

B. ACTION NO. 687-726 - SUPERIOR COURT FOR THE CITY AND COUNTY OF SAN FRANCISCO. No party shall oppose and each party shall affirmatively cooperate with the PORT in expeditiously obtaining immediately after the effective date of this Agreement the Court's permission to commence building a second level of the existing terminal

finger building, an additional baggage carrousel, and an experimental transporter program involving two (2) Plane-Mates and necessary ancillary alterations. Such cooperation shall include, but shall not be limited to, CITY and HBI entering into appropriate stipulations and motions for submission and presentation to the Court, requesting said Court to modify its judgment in this action in order to provide that the proposed Airport Master Plan environmental impact report certified by PORT on February 19, 1975, is adequate and valid solely for purposes of constructing the improvements set forth in the Terminal Expansion Program: Phase I Environmental Impact Report dated December 1974 (No. 74-608/EIR), that said improvements shall have no adverse impact on the environment, that said improvements may be undertaken forthwith by PORT, and in order to provide that all provisions in said judgment for continuing jurisdiction by said Court shall be deleted.

C. ACTION NO. 694-559 - SUPERIOR COURT FOR THE CITY AND COUNTY OF SAN FRANCISCO. HBI and CITY shall dismiss the complaint in this action without prejudice. HBI and CITY each covenant not to sue PORT for nuisance for any acts or events allegedly constituting a nuisance which are covered in said complaint, or the same type of acts or events which occur after the effective date of this Agreement, except for the following events or occurrences which may take place after said effective date:

- (1) Those operations involving Runways 9R-27L, 9L-27R and 15-33 which are not

within the parties' covenant not to sue
in subparagraph A(3) of Paragraph 2 of
this Agreement;

(2) Right turn climbout departures over
Bay Farm Island from Runway 11-29;

(3) Training flights between the hours of
10:00 p.m. and 9:00 a.m.;

(4) Those operations involving any new
runway inboard of existing Runway 11-29 which
are not within the parties' covenant not to
sue in subparagraph A(3) of Paragraph 2 of this
Agreement;

(5) Supersonic aircraft operations;

(6) PORT's expansion or improvement of
the Airport which is in excess of such expansion
or improvements set forth in the Airport Master
Plan outline attached hereto as Exhibit C,
excluding therefrom operations which are within
the parties' covenant not to sue in subparagraphs
A (2) and (3) of Paragraph 2 of this Agreement; and

(7) Aircraft engine test runups between
the hours of 7:00 p.m. and 7:00 a.m. except
where the level of noise generated by such testing
at the nearest present residential property on
Bay Farm Island exceeds 70 dBA between the
hours of 7:00 p.m. and 10:00 p.m. and 65 dBA
between the hours of 10:00 p.m. and 7:00 a.m.
the following day. It is understood that for
purposes of this subparagraph C(7) engine test

runups shall not include any preflight engine runups on apron areas, taxiways and runways.

D. ACTION NO. 456365-7 - ALAMEDA COUNTY SUPERIOR COURT. CITY shall forthwith dismiss the petition and complaint with prejudice.

2. COVENANTS NOT TO SUE. The parties hereto make the following covenants not to sue:

A. DEVELOPMENT OF AIRPORT. All parties and each of them agree not to sue PORT or object as hereinafter set forth with respect to the following:

(1) PORT's expansion or improvement of the Airport, including, but not limited to, any environmental impact report or environmental impact study and any approval or permit by any governmental agency in connection with such expansion or improvement, which expansion or improvement is consistent with and not in excess of the Airport Master Plan outline attached hereto as Exhibit C. No party hereto shall oppose in any manner PORT's obtaining any approvals or permits necessary from any agency of government including, but not limited to, any necessary approvals from any court, for the Airport Master Plan and environmental impact report and/or environmental impact statement therefor based upon the Airport Master Plan outline attached hereto as Exhibit C ;

(2) Notwithstanding subparagraph A(1) of this Paragraph 2, any current or expanded operations of subsonic aircraft on the existing Runway 11-29 except for right turn climbout departures over Bay Farm Island, and training flights between the hours of 10:00 p.m. and 9:00 a.m.; and

(3) Any current or expanded operations of aircraft on existing Runways 9R-27L, 9L-27R and 15-33 which do not involve the taking off from Runways 27R and 27L or the landing on Runways 9L and 9R of all turbo-jet powered aircraft, all turbo-fan powered aircraft, those turbo-prop powered aircraft and surplus military aircraft with a certificated gross take-off weight in excess of 12,500 pounds, all four-engine reciprocating engine powered aircraft, and all aircraft with a certificated gross take-off weight in excess of 12,500 pounds taking off on Runways 27R and 27L that do not use the threshold of said Runways; provided, however, that no party shall sue PORT when said aircraft landings or departures occur under the circumstances described in subparagraphs A(1) and (2) of Paragraph 6 of this Agreement unless Runway 11-29 is closed which results in said landings and departures for more than 120 consecutive hours, or 240 intermittent hours for a thirty (30) day period,

or treated so that the interior noise level does not exceed 45dBA annual CNEL as said level is determined by applicable state and local noise insulation standards presently in effect. Provided further, that for HBI's property south of said line which is presently zoned CM-PD these covenants shall not prevent PORT from any said suits, objections or opposition with respect to said General Plan or elements thereof, zoning, approvals, permits or procedures which might permit any residential development, schools, amphitheatres, libraries, churches, hospitals or nursing homes. In return for said agreement and covenant by PORT, HBI hereby covenants and agrees as follows:

(1) HBI hereby grants to PORT an option to obtain a noise easement and release with respect to (a) that portion of HBI's property that lies south of the line designated on Exhibit E and north of HBI's property as described in Exhibit G attached to this Agreement, and (b) HBI's property described in Exhibit G. All of said property is more particularly described in Exhibit H attached hereto. The terms of said option are hereinafter set forth in Paragraph 3 of this Agreement.

(2) HBI shall not commence residential construction on residential lots, nor seek to obtain planned development or subdivision

approval, permit or environmental impact report procedures or any other type of approval or permit concerning Bay Farm Island land, except as expressly provided in this subparagraph C or subparagraph B of this Paragraph 2. PORT may so object or sue in the event that PORT exercises the option granted to it in Paragraph 3 of this Agreement, and in the event that CITY's General Plan permits new residential development without an easement and release in substantially the form of Exhibit B south of the line designated on Exhibit E on undeveloped property other than HBI's property, provided however, that PORT may not so sue or object if PORT is granted an easement and release in substantially the form of Exhibit B, concerning all of said undeveloped property other than HBI's presently owned property. Nothing in this subparagraph C(1) shall affect PORT's covenant not to sue HBI set forth in subparagraph B of Paragraph 2.

(2) HBI and PORT reserve any and all objections they may have without prejudice but each agree not to object to and covenant not to sue as to any issues involving CITY's "Proposed Noise Element," dated May 1976, or as said Element may be adopted in substantially the same form as CITY's final Noise Element, and HBI and PORT agree not to petition or request CITY in any manner whatsoever, direct or indirectly, prior

to the expiration of two (2) years from and after the effective date of this Agreement or the date that PORT exercises its option pursuant to Paragraph 3 of this Agreement, whichever date first occurs, to modify, amend, supplement, revise or otherwise change CITY's Noise Element. Notwithstanding anything in this Agreement to the contrary, in the event that said Proposed Noise Element is modified, or said final Noise Element is adopted and is later modified, in a form not substantially the same as the "Proposed Noise Element "dated May 1976, HBI and/or PORT shall be released from said agreement not to object and covenant not to sue hereinabove described in this subparagraph C(2).

3. GRANT OF NOISE EASEMENT AND RELEASE - OPTION

A. HBI hereby grants to PORT an irrevocable option for PORT to obtain from HBI a noise easement and release, as more particularly described in Exhibit B attached hereto, with respect to (1) all of HBI's property that lies south of the line designated on Exhibit E and north of HBI's property, as described in Exhibit G and (2) HBI's property described in Exhibit G. All of said property is more particularly described in Exhibit H attached hereto. It is understood by HBI and PORT that PORT already owns a noise easement over approximately 94 acres of HBI's property which property is described in Exhibit G. In the event that PORT exercises said option, PORT shall contemporaneously with the grant to

it of said easement and release reconvey and remove said existing easement. The period of said option shall be for two (2) years from and after the effective date of this Agreement.

B. PORT may exercise said option within said period and thereafter compensate HBI for the loss in value for that land affected by the easement and release in either of two (2) ways as follows:

(1) PORT shall give to HBI written notice within said two (2) year period that PORT shall pay to HBI the sum of Four Hundred Fifty Thousand and No/100 Dollars (\$450,000.00). In the event that PORT gives said notice to HBI PORT shall pay to HBI all of said sum not later than thirty (30) days from and after the giving of said notice, and HBI shall simultaneously deliver to PORT the grant of noise easement and release; provided, however, that as an alternative to said compensation, PORT may offer for public sale not more than forty-five (45) days from and after giving said notice bonds with a face value equal to Four Hundred Fifty Thousand and no/100 Dollars (\$450,000.00). Said bonds shall mature in approximately equal annual installments of principal and interest over a period of twenty-five (25) years from and after the date of sale of said bonds, shall be redeemable on terms established by PORT, shall be in denominations of Five Thousand and no/100 Dollars (\$5,000.00)

each, shall be secured on a parity with PORT's 1966 airport development revenue bonds and shall bear interest at a rate to be set by the Board but not to exceed the lower of (a) nine percent (9%) and (b) a rate 0.15 above the Bond Buyers 20 bond index most recently published prior to the date that PORT gives to HBI notice of exercise of the option, which rate shall be specified in said notice. PORT may offer said bonds for public sale, shall determine to accept a bid or reject all bids not later than sixty (60) days from and after making said offer and HBI agrees to purchase said bonds if no other bid is accepted by PORT. PORT shall pay to HBI Four Hundred Fifty Thousand and no/100 Dollars (\$450,000.00) not more than sixty (60) days from and after the date upon which PORT accepts a bid or rejects all bids for said bonds and HBI shall simultaneously deliver to PORT the grant of noise easement and release;

(2) PORT shall tender to HBI and/or DISTRICT a contract for purchase and placement of sand in a form satisfactory to HBI and/or DISTRICT providing for the purchase by PORT from HBI and/or DISTRICT of not less than one million five hundred thousand (1,500,000) cubic yards of sand and HBI shall simultaneously deliver to PORT the grant of noise easement and release. HBI and DISTRICT each hereby covenants that

each or the other presently has full ownership right and power to grant, sell and convey all of said sand, and in the event PORT exercises its option by tendering to HBI and/or DISTRICT said sand purchase contract HBI and/or DISTRICT shall provide PORT written evidence satisfactory to PORT that HBI and/or DISTRICT has the right, authority and power to grant, sell and convey said sand to PORT. The price for said sand purchase shall be Three and No/100 Dollars (\$3.00) per cubic yard for all such sand delivered prior to January 1, 1977. Said price per yard shall increase at the rate of five percent (5%) for each succeeding six (6) months period commencing January 1, 1977, and continuing and accumulating on July 1st and January 1st of each succeeding year until all of said sand has been delivered. HBI and/or DISTRICT shall deliver said sand to a location on Airport property as designated on Exhibit I attached hereto, and HBI and/or DISTRICT shall deliver, compact and treat the sand for erosion control in accordance with specifications as set forth on Exhibit J attached hereto, all at no additional cost or expense to PORT. Upon request by PORT HBI and/or DISTRICT shall deliver sand as expeditiously as practicable.

C. In the event that PORT exercises the option hereinabove provided for, a noise easement and release (including a description of the property to which they apply) in substantially the form set forth on Exhibit B attached to this Agreement shall be granted to PORT by HBI. It is the intention of PORT and HBI that said noise easement and release shall provide to PORT the utmost protection possible against all claims, demands, actions, suits or proceedings of whatever kind or nature on account of real or personal property damage or personal injury or any other alleged taking, loss, damage or injury based upon whatever theory or theories of recovery, which may arise out of or be caused by PORT's exercise of its easement. It is further the desire of the parties hereto that each and every provision of this Agreement be liberally construed to foster said intention, and that consistent with said desire the form of said noise easement and release shall be at PORT's request with HBI's approval, said approval not to be unreasonably withheld, modified prior to the date that they are granted to PORT in order to effectuate and realize said intention.

D. HBI hereby covenants that it is presently the owner in fee simple of all of the property subject to the option for a noise easement and release, that it has full ownership right and power to grant, sell and convey the option and the noise easement and release, and that in the event PORT exercises the option to purchase said easement and release granted to it in this Agreement HBI or its successor in interest shall be a like owner

with like ownership rights and powers to grant said easement and release. HBI also agrees that in the event PORT exercises said option HBI or its successor in interest shall provide to PORT written evidence satisfactory to PORT that HBI and each partner of HBI or that HBI's successor in interest, including each and every partner of said successor in interest, has the right, authority and power to grant to PORT said noise easement and release.

E. Notwithstanding any other provision of this Agreement, in the event that PORT exercises its option, HBI shall promptly notify PORT of, and provide PORT a copy of, each application submitted to the State of California Department of Real Estate for a preliminary or final subdivision public report concerning the land subject to the easement and release, and PORT may thereafter notify the State of California Department of Real Estate that said easement has been granted and recorded, and provide said Department with a copy thereof.

F. HBI covenants for a period of up to two (2) years from and after the effective date of this Agreement and, provided PORT has exercised the option, for an additional period from and after the date of exercise of the option by PORT until one working day after the delivery of the grant of easement and release by HBI to PORT, that all instruments or documents securing financial indebtedness which create liens or encumbrances on all or a portion of the property described in Exhibit H shall contain a provision satisfactory to PORT which automatically subordinates the lien or encumbrance of such instruments or documents

to the encumbrance of the noise easement if and when said easement is recorded by PORT. Such financial indebtedness encumbrance subordination shall not include the assessment lien of DISTRICT nor any lien pertaining to real or personal property taxes. HBI further covenants that during said period HBI shall remove any indebtedness that becomes a lien on the property described on Exhibit H prior to the recordation of said noise easement; provided, however, that this covenant to remove a lien shall not apply to the assessment lien of DISTRICT, any lien pertaining to real and personal property taxes, nor to any lien that may be subordinated to said easement as hereinabove provided.

G. All parties understand and agree that upon the execution of this Agreement PORT may file in the office of the County Recorder of the County of Alameda a Notice of Option for Grant of Easement and Release and Agreement to Subordinate in substantially the form of Exhibit K attached to this Agreement, and contemporaneously with the execution of this Agreement PORT and HBI shall execute said notice. In the event that PORT does not exercise its option, it shall at HBI's request execute whatever documents may be reasonably necessary to remove any cloud on the property subject to said option and caused by said filed Notice.

H. All parties understand and agree that each and every covenant in this Paragraph 3 shall continue in full force and effect from and after the grant to PORT of the easement and release.

4. GOVERNMENTAL AGENCY SUPPORT. PORT agrees to advise all governmental agencies having any interest in or jurisdiction over the HBI project that it withdraws its objection to the HBI project and that the controversies among the parties hereto have been settled as set forth in this Agreement. PORT also agrees to advise all such governmental agencies that for purposes of the State of California Noise Standards, Title 4, California Administrative Code, Subchapter 6, Section 5014, the easement provided for in this Agreement shall render HBI's project compatible with Airport operations. PORT further agrees to advise all such governmental agencies that a portion of HBI's property south of the line designated on Exhibit E attached hereto is residentially zoned but is subject to a two (2) year moratorium and to CITY's planning jurisdiction pursuant to this Agreement. Each party to this Agreement agrees to advise said governmental agencies and all governmental agencies having any interest in or jurisdiction over the Airport or activities thereat, that it withdraws its objections to Airport development and operations as provided in this Agreement, and that the controversies among the parties hereto have been so settled and that present and future operations at the Airport, and proposed Airport development pursuant to the Airport Master Plan outline attached as Exhibit C, are not opposed by the parties or any one of them. Each party agrees to use its best efforts to support the terms of this Agreement before the following governmental agencies:

A. BCDC.

B. ALAMEDA COUNTY AIRPORT LAND USE COMMISSION

ALUC. PORT acknowledges that HBI and CITY may petition the Alameda County ALUC to incorporate the terms of this Agreement pertaining to land uses on the HBI project providing for land uses for residential development on approximately 541 acres. PORT shall not object to said petition and shall inform said ALUC that pursuant to the State Noise Standards the easement provided for in this Agreement shall render the land uses proposed in said Plan south of the line described on Exhibit E compatible with AIRPORT operations.

C. ENVIRONMENTAL PROTECTION AGENCY.

D. FEDERAL AVIATION ADMINISTRATION.

E. U.S. ARMY CORPS OF ENGINEERS.

F. MTC and all committees thereof.

G. ABAG and all committees thereof.

H. DIVISION OF AERONAUTICS, State of California.

I. DEPARTMENT OF EDUCATION, State of California.

J. State, local, county, regional and federal legislators and legislative committees and subcommittees that have any interest in the Airport or the HBI project.

K. Any and all other local, state and federal agencies that have any interest in the HBI project or the Airport.

5. WATER LINE. PORT agrees for a reasonable compensation to grant an easement to East Bay Municipal

Utility District across PORT property to construct a 24-inch waterline to provide improved water service to CITY and the City of Oakland.

6. DEANNEXATION AND ANNEXATION. It is understood by each party to this Agreement that immediately upon the effective date of this Agreement PORT and/or City of Oakland shall request CITY to take all action necessary before all local, county, regional and state governmental agencies, and to affirmatively cooperate with PORT, in order to deannex from CITY and annex to the City of Oakland that certain property shown as Parcel One on Exhibit L attached hereto now owned by PORT, and to transfer to PORT without compensation to CITY pursuant to the authorization to CITY to make said transfer by the California Legislature in Chapter 1028, Statutes 1955 CITY's title to that certain portion of tide and submerged land as shown as Parcel Two on said Exhibit now leased by CITY to PORT and thereafter deannex said transferred property from CITY and annex said property to the City of Oakland. Each party hereto also understands that pursuant to Paragraph 7 of this Agreement CITY may request PORT to transfer to it without compensation portions of a right-of-way for City Line Road, and may request PORT and/or the City of Oakland to take all action necessary to deannex said portions of right-of-way from the City of Oakland and annex said portions of right-of-way to CITY. PORT agrees that upon favorable completion of all deannexation proceedings which shall include such proceedings as are necessary to annex all deannexed property to the City of Oakland that PORT

shall pay annually to CITY the fixed sum of Four Thousand Two Hundred Fifty Dollars (\$4,250.00). Said annual sum shall be due and payable not later than the first day of July of each year from and after the effective date of this Agreement, and shall be prorated for the initial year. It is understood by the parties hereto that CITY by execution of this Agreement does not contract for said deannexation. In the event that said deannexation and annexation are completed, PORT shall institute and maintain the following airport noise abatement procedures:

A. PORT shall establish a preferential runway program which will provide that all turbo-jet powered aircraft, all turbo-fan powered aircraft, those turbo-prop powered aircraft and surplus military aircraft with a certificated gross take-off weight in excess of 12,500 pounds, all four-engine reciprocating engine powered aircraft may not take off from Runways 27R and 27L or depart from Runways 9L and 9R, and that all aircraft with a certificated gross take-off weight in excess of 12,500 pounds departing on Runways 27R and 27L shall use the threshold of said Runways.

The only exceptions to this program shall be the following:

(1) Emergency landings or takeoffs that are necessary on account of a substantial risk of serious injury or damage or death.

(2) Whenever Runway 11-29 is closed for construction, maintenance or repairs or by any cause beyond the control of PORT. PORT shall to the best of its ability and whenever reasonably practicable perform necessary repairs during

the night or early morning hours. Where such construction, maintenance or repairs are scheduled in advance, and are not minor in nature, PCRT will notify CITY as soon as possible of said work and discuss impacts thereof with CITY.

B. PORT shall take such reasonable actions available to it as airport proprietor to discourage right turn climbout departures over Bay Farm Island from Runway 11-29 for all aircraft.

C. PORT shall advise and encourage airlines to schedule all training flights between the hours of 7:00 a.m. and 10:00 p.m. to the extent reasonably practicable.

D. PORT shall prohibit aircraft engine test runups between the hours of 7:00 p.m. and 7:00 a.m. except where the level of noise generated by such testing at the nearest present residential property on Bay Farm Island does not exceed 75 dBA between the hours of 7:00 p.m. and 10:00 p.m. and 70 dBA between the hours of 10:00 p.m. and 7:00 a.m. the following day. It is understood that engine test runups shall not include any preflight engine runups on apron areas, taxiways and runways.

PORT has no present intention to extend Runway 11-29 in a westerly direction beyond its presently proposed length of twelve thousand five hundred (12,500) feet as shown on Exhibit A and has no present intention to construct, and the AIRPORT Master Plan outline does not provide for, a new runway inboard of existing Runway 11-29 which will be used for operations described in subparagraph A of this Paragraph 6.

Technological advances may permit use of Runways 9R-27L and 9L-27R by aircraft which do not cause unreasonable noise impacts and do not result in overflights over residential portions of Bay Farm Island which otherwise would be covered by this preferential runway program. In such event the CITY shall discuss with the PORT appropriate revisions to this program.

7. CITY LINE ROAD. The parties hereto agree that it is in the best interests of all parties that City Line Road be constructed and dedicated as a public road. Accordingly, it is understood that upon the effective date of this Agreement CITY may request PORT to take all action necessary to transfer without compensation certain right-of-way area for use as portions of City Line Road, and may request PORT and/or City of Oakland to take all action necessary before all local, county, regional and state governmental agencies, and to affirmatively cooperate with CITY, in order to deannex from the City of Oakland and annex to CITY said transferred right-of-way. The parties hereto agree to use their best efforts jointly to seek solutions to the location, dedication, financing and construction of City Line Road. PORT's participation in the effort shall include but shall not be limited to the granting to CITY a right-of-way over PORT property for portions of said City Line Road without compensation to PORT in areas to be determined by CITY and PORT, subject to reservation therefrom of an easement and right by PORT to use said right-of-way for roadway, access, utility and similar purposes. Said joint effort

shall be pursued as a matter of primary importance in the joint planning sessions hereinafter provided for in Paragraph 9 of this Agreement. It is understood by the parties hereto that the City of Oakland by execution of this Agreement does not contract for said deannexation.

8. DECLARATION OF NOISE PROBLEM. Upon PORT's instituting Airport noise abatement procedures, as set forth in Paragraph 6 of this Agreement, HBI and CITY agree at the request of PORT to take all action necessary and to support and cooperate with PORT in having the Board of Supervisors of Alameda County declare that the Airport does not have a noise problem pursuant to the Public Utilities Code of the State of California and Title 4, California Administrative Code, Subchapter 6, or in otherwise having rescinded or declared ineffective the declaration by said Board in 1972 that the Airport has a noise problem.

9. JOINT PLANNING. HBI, CITY and PORT agree to appoint representatives to meet on a regular basis at intervals not less than once every two (2) months, for as long as said parties may agree, to plan towards the solution of common access and transportation problems and any other problems that may arise that are common to the parties hereto.

10. BINDING. Except as specifically provided in this Paragraph 10, this Agreement shall bind successors in interest of the PORT and all future Boards of Port Commissions, successors in interest to CITY and all future CITY councils and departments, the individual partners of the HBI partnership, HBI's successors in interest,

including each partner's respective parent and subsidiary entities, and their respective successors in interest.

The parties hereto acknowledge that HBI intends to sell portions of its Bay Farm Island real property to other real property developers and/or builders and that in order to more completely assure the intended benefits of this Settlement Agreement to all parties and assist in the maintenance of a cooperative environment between HBI, PORT and CITY, it is agreed that such developers and/or builders should have no independent rights to commence legal action against PORT. Accordingly as hereinafter provided, HBI shall require such developers and/or builders to transfer such rights to HBI so that HBI's limited covenants to sue PORT as set forth in the Agreement along with HBI's desire to maintain said cooperative environment shall control all developer and/or builder litigation rights against PORT on the HBI project.

Except as provided in Paragraph 3 of this Agreement, this Agreement shall not be binding upon any person, corporation or entity which purchases any of HBI's real property as more particularly described in Exhibit M attached hereto and incorporated herein by this reference. However, as to any person, corporation or entity (hereinafter "Homebuilder") which purchases from HBI five or more developed or undeveloped residential lots or which purchases real property for development into five or more residential lots, which lots are intended to be sold by Homebuilder to individual purchasers, HBI hereby covenants that it shall secure from any such Homebuilder an assignment of any and all rights that Homebuilder might

acquire by purchase of said lots or property, or otherwise, against PORT on account of any Airport development or operations, now or in the future. HBI further covenants that it shall secure from such Homebuilders an agreement that Homebuilders shall not sue the PORT in connection with or complain about the development or operations of the Airport in any event without the prior written consent of HBI. HBI covenants that it will not give such written consent to Homebuilders to bring suit or otherwise complain about development or operations if said suit or complaint is not permitted by this Agreement.

11. EFFECTIVE DATE. The effective date of this Agreement shall be the last date that any party thereto executes this Agreement.

12. PRESS RELEASE. Attached hereto as Exhibit N to this Agreement is a joint press release that shall be delivered to all Bay Area news media after execution of this Agreement by all of the parties hereto.

13. COUNTERPARTS AND EXECUTION. This Agreement may be executed in multiple counterparts each of which when executed by one of the parties hereto shall be deemed an original.

IN WITNESS WHEREOF, each party hereto has executed this Settlement Agreement on the day and year hereinafter set forth.

HARBOR BAY ISLE ASSOCIATES,
a partnership

Doric Development, Inc.

By *Ronald H. Cowan*
Ronald H. Cowan, Chairman
Bay Farm Island, Inc.

By *Alf E. Brandin*
Alf E. Brandin, Vice President

Dated: July 20, 1976

CITY OF OAKLAND,
a municipal corporation,
acting by and through its
Board of Port Commissioners

By *William H. Mortimer*
President

By *Charles L. Marshall*
Secretary

Dated: July 21, 1976

Approved as to form and
legality this 21st day
of July, 1976.

Thomas W. Clark
Deputy Port Attorney

CITY OF ALAMEDA, a
municipal corporation

By *C. J. Casia*
Mayor

By *Edith M. Pitt*
City Clerk

Dated: July 21, 1976

RECLAMATION DISTRICT
NO. 2105

By *F. S. Collischonn*
F.S. Collischonn, Vice Chairman

By *Bruce T. Mitchell*
Bruce T. Mitchell, Secretary

Dated: July 20, 1976

UTAH INTERNATIONAL, INC.,
a corporation

By *E. W. Littlefield*
E.W. Littlefield, Chairman
of the Board

By *Alf E. Brandin*
Alf E. Brandin, Sr. Vice Pres.

Dated: July 20, 1976

DORIC DEVELOPMENT, INC.,
a corporation

By *Ronald H. Cowan*
Ronald H. Cowan, President

By *Ronald I. Curtis*
Ronald I. Curtis, Exec. Vice Pres.

Dated: July 20, 1976