



AGENDA FOR THE ANNUAL MEETING OF THE GOVERNING BOARD OF THE INTERMODAL CONTAINER TRANSFER FACILITY JOINT POWERS AUTHORITY TO BE HELD BY VIDEO CONFERENCE, ON WEDNESDAY, SEPTEMBER 9, 2020, AT 5:00 P.M.

The Civic Chambers will not be accessible for public observance of the meeting or public comment pursuant to executive order N-29-20 issued by Governor Newsom on March 17, 2020. Members of the public can observe the meeting via webcast at www.polb.com/webcast. Members of the public are invited to participate in the meeting during public comment or on a specific agenda item via teleconference by calling the following number: (562) 317-3026 or by emailing info@ictf-jpa.org.

The Intermodal Container Transfer Facility Joint Powers Authority intends to provide reasonable accommodations in accordance with the Americans with Disabilities Act of 1990. This agenda is available in an alternative format by request. If a special accommodation is desired, please call (562) 283-7056, 48 hours prior to the meeting.

A. ROLLCALL

B. OPENING STATEMENT

Members of the public may address this Board in connection with any agenda item or during the public comment period by calling (562) 317-3026 or by emailing info@ictf-jpa.org. If calling, you will be asked to leave a voicemail with your name, your telephone number for a return call and the item number you would like to comment on (or specify “public comment”). If emailing, please include your name, your telephone number for a return call and the item number you would like to comment on (or specify “public comment”). You will be called during the meeting on the item you specify. If you do not answer when called, we will move on to the next public speaker. As provided by the Brown Act, the Board will limit each individual’s speaking time to three minutes. All public comment requests need to be submitted by 4:45 p.m. on the day of the meeting.

C. ELECTION OF OFFICERS

Election of Officers for fiscal year 2020-2021

D. APPROVAL OF MINUTES



Approval of minutes from the annual meeting on September 11, 2019.

E. PUBLIC COMMENTS ON NON-AGENDA ITEMS

Comments from the public on non-agenda items within the purview of the ICTF JPA.

F. BOARD REPORTS OF THE EXECUTIVE DIRECTOR

1. Executive Director Remarks
2. Recommendation to receive and file audited financial statements for fiscal year ending June 30, 2019.
3. Recommendation to receive and file Agreed-Upon Procedures (AUP) for year ending November 1, 2019.
4. Recommendation to adopt annual budget and distribution of funds for fiscal year 2020-2021.
5. Recommendation to approve amendment to contract with EnSafe Inc.
6. Recommendation to authorize Southern California Edison License Agreement

G. ADJOURNMENT



C. ELECTION OF OFFICERS



DATE: September 09, 2020

TO: Governing Board, Intermodal Container Transfer Facility Joint Powers Authority

FROM: Richard D. Cameron, Executive Director

SUBJECT: Election of Officers for FY 2020-2021

Pursuant to Section 3D of the Joint Powers Agreement, the Governing Board shall elect one member as Chairperson. The Governing Board may elect a second member as Vice Chairperson. The term for both Chairperson and Vice Chairperson is one year with no specific guidelines for selection of any officer, including no restriction on re-election for successive terms of either office. Further, Section 3D dictates that the Governing Board shall appoint a Secretary and the Treasurer of the Joint Powers Authority.

It is recommended that the Governing Board nominate and elect a Chairperson and a Vice Chairperson for the fiscal year 2020-2021.

It is also recommended that the Board make the following finding:

“The Board finds the activity is an administrative activity that will not result in direct or indirect physical changes in the environment, and, as such, is not a “project” as defined by CEQA Guidelines section 15378.”

Richard D. Cameron

Richard D. Cameron
Executive Director



D. APPROVAL OF MINUTES

Approval of minutes of the special meeting on September 11, 2019.



Special Meeting of the Governing Board of the Intermodal Container Transfer Facility Joint Powers Authority Minutes

Minutes of the Special Meeting of the Governing Board of the Intermodal Container Transfer Facility Joint Powers Authority, held at Port of Long Beach Administration Building, Long Beach, California, on Wednesday, September 11, 2019 at 6:00 p.m. Transcript and video of this meeting are available at <http://ictf-jpa.org/>

Present: Board Members: Bynum, Gioiello (alternate), Kanegy (alternate), Moreno-Linares
Chairperson Moreno-Linares presided

Also present:

R.	Cameron	Executive Director of the ICTF JPA
J.	Sidley	General Counsel of the ICTF JPA
J.	Crose	General Counsel of the ICTF JPA
E.	Flores	Secretary of the ICTF JPA

Public Speakers:
None

Agenda Items

Election of Officers – Item C

Executive Director Richard D. Cameron recommended that the JPA Board nominate Officers for fiscal year 2019 – 2020. Chairperson Moreno-Linares asked for recommendations. Vice Chairperson Bynum nominated Moreno-Linares for Chair.

Kanegy seconded, carried by the following vote:

Ayes:	Board Members:	Bynum, Gioiello, Kanegy, Moreno-Linares
Noes:	Board Members:	None

Executive Director Cameron recommended the board appoint a Vice Chair. Chairperson Moreno-Linares asked for recommendations.

Gioiello nominated Bynum to be Vice Chair, Kanegy seconded, carried by the following vote:

Ayes: Board Members: Bynum, Gioiello, Kanegy, Moreno-Linares
Noes: Board Members: None

Executive Director Cameron recommended the board appoint a Treasurer. Chairperson Moreno-Linares asked for recommendations.

Vice Chairperson Bynum nominated Marla Bleavins to be Treasurer, Gioiello seconded, carried by the following vote:

Ayes: Board Members: Bynum, Gioiello, Kanegy, Moreno-Linares
Noes: Board Members: None

Executive Director Cameron recommended the board appoint a Secretary. Chairperson Moreno-Linares asked for recommendations.

Kanegy nominated Elena Flores to be Secretary, Gioiello seconded, carried by the following vote:

Ayes: Board Members: Bynum, Gioiello, Kanegy, Moreno-Linares
Noes: Board Members: None

Receive and File of Minutes – June 18, 2019 – Item D

Executive Director Cameron recommended the board approve the minutes of the special meeting on June 18, 2019. Chairperson Moreno-Linares asked if there were any corrections. No corrections were noted. Moreno-Linares asked for a motion to receive and file the minutes.

Bynum moved, seconded by Gioiello, carried by the following vote:

Ayes: Board Members: Bynum, Gioiello, Kanegy, Moreno-Linares
Noes: Board Members: None

Public Comment on Non-Agenda Items – Item E

Executive Director Cameron asked if there was anyone that wished to discuss non-agenda items.

No public comments were made.

Board Reports of Executive Director – Item F

I. Update on the City of Carson Sepulveda Boulevard Widening Project Funding

Executive Director Cameron stated that the City of Carson project is on hold at this time until additional funding is attained for the full project. The City did not provide a time frame on when the funding would be attained. The project will continue to be

monitored if anything changes with the City of Carson. There were no questions. Chairperson Moreno-Linares asked for a motion to receive and file.

Kanegy moved, seconded by Bynum, carried by the following vote:

Ayes:	Board Members:	Bynum, Gioiello, Kanegy, Moreno-Linares
Noes:	Board Members:	None

Adjournment

Chairperson Moreno-Linares asked for a motion to adjourn.

Bynum moved, seconded by Gioiello, carried by the following vote:

Ayes:	Board Members:	Bynum, Gioiello, Kanegy, Moreno-Linares
Noes:	Board Members:	None

Moreno-Linares adjourned the meeting at 6:08 p.m.



E. COMMENTS FROM THE PUBLIC ON NON-AGENDA ITEMS



F. BOARD REPORTS OF THE EXECUTIVE DIRECTOR



DATE: September 09, 2020

TO: Governing Board, Intermodal Container Transfer Facility Joint Powers Authority

FROM: Richard D. Cameron, Executive Director

SUBJECT: Financial Audit – Fiscal Year Ended June 30, 2019

Macias, Gini & O’Connell LLP (MGO) has completed the financial audit of the Intermodal Container Transfer Facility Joint Powers Authority (ICTF JPA) for the fiscal year that ended June 30, 2019. Their audit has determined that for the fiscal year ended June 30, 2019, the financial position, changes in financial position, and cash flows are presented fairly.

Operating revenues for the fiscal year increased 28.6% to \$5,161,483 due to the increase in containers that moved through the facility during the fiscal year that ended June 30, 2019. Net assets increased by 10.7% to \$12,299,022 over the same period. The volume of containers that moved through the Intermodal Container Transfer Facility gates increased by 31.3% to 385,937 containers, reflecting efficiency improvements through collaboration in supply chain.

It is recommended that the Governing Board receive and file the financial audit report for the fiscal year ended June 30, 2020.

It is also recommended that the Board make the following finding:

“The Board finds the activity is administrative activity that will not result in direct or indirect physical changes in the environment, and, as such, is not a “project” as defined by CEQA Guidelines section 15378.”

Richard D. Cameron

Richard D. Cameron
Executive Director

**INTERMODAL CONTAINER TRANSFER
FACILITY
JOINT POWERS AUTHORITY**

Basic Financial Statements

June 30, 2019 and 2018

(With Independent Auditor's Report Thereon)



Certified
Public
Accountants

**INTERMODAL CONTAINER TRANSFER FACILITY
JOINT POWERS AUTHORITY**

Table of Contents

	Page
Independent Auditor's Report	1
Management's Discussion and Analysis (Unaudited)	3
Basic Financial Statements	
Statements of Net Position	8
Statements of Revenues, Expenses, and Changes in Net Position	9
Statements of Cash Flows	10
Notes to the Basic Financial Statements	11



Independent Auditor's Report

To the Board of Directors
Intermodal Container Transfer Facility Joint Powers Authority

We have audited the accompanying financial statements of the Intermodal Container Transfer Facility Joint Powers Authority (Authority) as of and for the years ended June 30, 2019 and 2018, and the related notes to the basic financial statements, which collectively comprise the Authority's basic financial statements as listed in the table of contents.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to express an opinion on these financial statements based on our audits. We conducted our audits in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Opinion

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the Authority, as of June 30, 2019 and 2018, and the changes in its financial position and its cash flows for the years then ended in accordance with accounting principles generally accepted in the United States of America.

Other Matters

Required Supplementary Information

Accounting principles generally accepted in the United States of America require that the management's discussion and analysis, as listed in the table of contents, be presented to supplement the basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board, who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. We have applied certain limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

Macias Gini & O'Connell LLP

Los Angeles, California
January 24, 2020

**INTERMODAL CONTAINER TRANSFER FACILITY
JOINT POWERS AUTHORITY**

Management's Discussion and Analysis

June 30, 2019 and 2018

(Unaudited)

The Intermodal Container Transfer Facility Joint Powers Authority (Authority) was formed in 1983 pursuant to an agreement between the Ports of Los Angeles and Long Beach, California (Venturers) for purposes of financing and constructing the Intermodal Container Transfer Facility (Facility) and leasing the Facility to Southern Pacific Transportation Company (subsequently, a wholly owned subsidiary of Union Pacific Corporation) (Tenant).

This section of the Authority's annual financial report presents management's discussion and analysis of the Authority's financial performance during the years ended June 30, 2019 and 2018. This discussion has been prepared by management and should be read in conjunction with the Authority's basic financial statements and related notes.

Overview of the Basic Financial Statements

This section serves as an introduction to the Authority's basic financial statements. The basic financial statements comprise of the following components:

The *Statements of Net Position* present information on all of the Authority's assets, deferred outflows of resources, liabilities, deferred inflows of resources, and net position. Over time, increases or decreases in net position may serve as a useful indicator of whether the financial position of the Authority is improving or deteriorating.

The *Statements of Revenues, Expenses, and Changes in Net Position* present information showing how the Authority's net position changed during the fiscal year. All changes in net position are reported as soon as the underlying event that gives rise to the change occurs, regardless of the timing of the related cash flows.

The *Statements of Cash Flows* present the inflows and outflows of cash and cash equivalents and resulting cash and cash equivalents position at fiscal year-end.

The *Notes to the Basic Financial Statements* present information that is not displayed on the face of the basic financial statements. Such information is essential to a full understanding of the Authority's financial activities.

**INTERMODAL CONTAINER TRANSFER FACILITY
JOINT POWERS AUTHORITY**

Management's Discussion and Analysis

June 30, 2019 and 2018

(Unaudited)

Financial Highlights and Analysis of Net Position

The following is a condensed summary of the Authority's net position as of June 30, 2019, 2018, and 2017:

Schedule of Net Position

	FY 2019	FY 2018	FY 2017	Increase (Decrease) Over Prior Year	
				FY 2019	FY 2018
Current assets	\$ 10,507,440	\$ 9,214,360	\$ 9,102,784	\$ 1,293,080	\$ 111,576
Capital assets, net	1,870,798	1,978,828	2,086,858	(108,030)	(108,030)
Total Assets	<u>12,378,238</u>	<u>11,193,188</u>	<u>11,189,642</u>	<u>1,185,050</u>	<u>3,546</u>
Other liabilities	79,216	85,798	83,676	(6,582)	2,122
Total liabilities	<u>79,216</u>	<u>85,798</u>	<u>83,676</u>	<u>(6,582)</u>	<u>2,122</u>
Net position					
Investment in capital assets	1,870,798	1,978,828	2,086,858	(108,030)	(108,030)
Unrestricted	10,428,224	9,128,562	9,019,108	1,299,662	109,454
Total net position	<u>\$ 12,299,022</u>	<u>\$ 11,107,390</u>	<u>\$ 11,105,966</u>	<u>\$ 1,191,632</u>	<u>\$ 1,424</u>

Fiscal Year 2019

The \$1.3 million, or 14.0%, increase in current assets is primarily due to an increase in cash and cash equivalents that is a result of cash collection from the Tenant. Current fiscal year's depreciation of \$0.1 million accounted for the decrease in net capital assets. Liabilities decreased by \$6.6 thousand due to more paid invoices at fiscal year-end compared to fiscal year 2018.

Net position of the Authority increased by 10.7% to \$12.3 million at June 30, 2019. Of the \$12.3 million net position as of June 30, 2019, \$1.9 million, or 15.2%, are invested in capital assets. There is no debt outstanding related to these capital assets. There are no assets subject to external restrictions on how they may be used. The remaining \$10.4 million, or 84.8%, in net position are unrestricted and may be used to meet the Authority's ongoing obligations.

**INTERMODAL CONTAINER TRANSFER FACILITY
JOINT POWERS AUTHORITY**

Management's Discussion and Analysis

June 30, 2019 and 2018

(Unaudited)

Fiscal Year 2018

The \$0.1 million, or 1.2%, increase in current assets is primarily due to an increase in cash and cash equivalents that is a result of cash collections from the Tenant. Current fiscal year's depreciation of \$0.1 million accounted for the decrease in net capital assets. Liabilities increased by \$2.1 thousand due to more unpaid invoices at fiscal year-end compared to fiscal year 2017.

Net position of the Authority increased by 1.2% to \$11.1 million at June 30, 2018. Of the \$11.1 net position as of June 30, 2018, \$2.0 million, or 17.8% are invested in capital assets. There is no debt outstanding related to these capital assets. There are no assets subject to external restrictions on how they may be used. The remaining \$9.1 million, or 82.2%, in net position are unrestricted and may be used to meet the Authority's ongoing obligations.

Summary of Operations and Analysis of Changes in Net Position

The following is a summary of the Authority's changes in net position for the years ended June 30, 2019, 2018, and 2017:

	FY 2019	FY 2018	FY 2017	Increase (Decrease) Over Prior Year	
				FY 2019	FY 2018
Operating revenue					
Facility rental	\$ 5,161,483	\$ 4,015,038	\$ 4,365,045	\$ 1,146,445	\$ (350,007)
Operating expense					
Depreciation	108,030	108,030	108,030	--	--
Net operating income	5,053,453	3,907,008	4,257,015	1,146,445	(350,007)
Nonoperating revenue (expense)					
Interest income	137,709	92,973	66,176	44,736	26,797
Settlement from Lehman Brothers	470	1,443	1,545	(973)	(102)
Distribution to Venturers	(4,000,000)	(4,000,000)	(4,000,000)	--	--
Net nonoperating revenue (expense)	(3,861,821)	(3,905,584)	(3,932,279)	43,763	26,695
Changes in net position	1,191,632	1,424	324,736	1,190,208	(323,312)
Net position, beginning of year	11,107,390	11,105,966	10,781,230	1,424	324,736
Net position, end of year	\$ 12,299,022	\$ 11,107,390	\$ 11,105,966	\$ 1,191,632	\$ 1,424

Container volumes that moved through the Authority's gate are 385,937, 293,801, and 299,825 containers for fiscal years 2019, 2018, and 2017, respectively.

Fiscal Year 2019

The \$1.1 million or 28.6% increase in facility rental revenue was mainly due to the increase in containers that moved through the Authority's facility during the fiscal year ended June 30, 2019. The increase in container volume this year at the facility reflects efficiency improvements through collaboration in supply chain.

**INTERMODAL CONTAINER TRANSFER FACILITY
JOINT POWERS AUTHORITY**

Management's Discussion and Analysis

June 30, 2019 and 2018

(Unaudited)

Interest income increased by \$44.7 thousand or 48.1% due to higher market values for the investment portfolio in the City of Long Beach's investment pool at June 30, 2019 compared to 2018. An investment settlement resulting from the claim filed by the City of Long Beach against Lehman Brothers is shown as nonoperating revenue. Distributions to Venturers totaled \$4.0 million in fiscal year 2019.

Fiscal Year 2018

The \$0.4 million or 8.0% decrease in facility rental revenue was mainly due to the decrease in containers that moved through the Authority's facility during the fiscal year ended June 30, 2018. Availability of new alternatives to Asian intermodal cargo moving through U.S. West Coast ports has caused competition in containers volume.

Interest income increased by \$26.8 thousand or 40.5% due to higher market values for the investment portfolio in the City of Long Beach's investment pool at June 30, 2018 compared to 2017. An investment settlement resulting from the claim filed by the City of Long Beach against Lehman Brothers is shown as nonoperating revenue. Distributions to Venturers totaled \$4.0 million in fiscal year 2018.

Capital Assets

The Authority's investment in capital assets, net of accumulated depreciation, as of June 30, 2019, 2018, and 2017 amounted to approximately \$1.9 million, \$2.0 million, and \$2.1 million, respectively. Construction of the Facility was completed in 1986. Construction funds were provided by the Venturer ports (\$5.4 million), Southern Pacific Transportation Company (\$36.2 million), and revenue bonds issued by the Authority on behalf of Southern Pacific Transportation Company (\$53.9 million). At June 30, 2019, 2018, and 2017, capital assets, net of accumulated depreciation, consisted of the following:

Summary of Capital Assets

	<u>FY 2019</u>	<u>FY 2018</u>	<u>FY 2017</u>
Property and equipment	\$ 5,401,520	\$ 5,401,520	\$ 5,401,520
Furniture and fixtures	10,650	10,650	10,650
Total capital assets	5,412,170	5,412,170	5,412,170
Less accumulated depreciation	(3,541,372)	(3,433,342)	(3,325,312)
Total capital assets, net	<u>\$ 1,870,798</u>	<u>\$ 1,978,828</u>	<u>\$ 2,086,858</u>

The Authority's interest in the Facility is the \$5.4 million in combined contributions from the Venturers. There had been no additions to capital assets since the Facility's construction was completed in 1986. Reductions in capital assets are from annual depreciation provisions for fiscal years 2019, 2018, and 2017.

**INTERMODAL CONTAINER TRANSFER FACILITY
JOINT POWERS AUTHORITY**

Management's Discussion and Analysis

June 30, 2019 and 2018

(Unaudited)

Factors that May Affect the Authority's Operations

Fluctuations in economic activity that drive the movement of cargo in and out of the San Pedro Bay ports along with cargo owners deciding how to transport their cargo both have the ability to affect the volume of operations through the Facility.

Request for Information

Questions about this report or requests for additional information should be addressed to the Executive Director, Intermodal Container Transfer Facility Joint Powers Authority, 415 W. Ocean Blvd., Long Beach, CA 90802.

**INTERMODAL CONTAINER TRANSFER FACILITY
JOINT POWERS AUTHORITY**

Statements of Net Position
June 30, 2019 and 2018

	2019	2018
ASSETS		
Current assets		
Cash and cash equivalents (note 2)	\$ 10,015,619	\$ 8,897,571
Receivable from Tenant	491,821	316,789
Total current assets	10,507,440	9,214,360
Capital assets, less accumulated depreciation (note 5)	1,870,798	1,978,828
TOTAL ASSETS	12,378,238	11,193,188
 LIABILITIES AND NET POSITION		
Liabilities		
Accounts payable	6,024	1,188
Excess Tenant advances (note 4)	73,192	84,610
TOTAL LIABILITIES	79,216	85,798
 NET POSITION		
Net position (note 3)		
Investment in capital assets	1,870,798	1,978,828
Unrestricted	10,428,224	9,128,562
TOTAL NET POSITION	\$ 12,299,022	\$ 11,107,390

See accompanying notes to the basic financial statements.

**INTERMODAL CONTAINER TRANSFER FACILITY
JOINT POWERS AUTHORITY**

Statements of Revenues, Expenses, and Changes in Net Position
For the Years ended June 30, 2019 and 2018

	2019	2018
OPERATING REVENUE		
Facility rental (note 1)	\$ 5,161,483	\$ 4,015,038
OPERATING EXPENSE		
Depreciation	108,030	108,030
Net operating income	5,053,453	3,907,008
NONOPERATING REVENUE (EXPENSES)		
Interest income	137,709	92,973
Settlement from Lehman Brothers	470	1,443
Distribution to Venturers (note 3)	(4,000,000)	(4,000,000)
Net nonoperating expenses	(3,861,821)	(3,905,584)
CHANGES IN NET POSITION	1,191,632	1,424
Net position, beginning of year	11,107,390	11,105,966
Net position, end of year	\$ 12,299,022	\$ 11,107,390

See accompanying notes to the basic financial statements.

**INTERMODAL CONTAINER TRANSFER FACILITY
JOINT POWERS AUTHORITY**

Statements of Cash Flows
Years ended June 30, 2019 and 2018

	2019	2018
CASH FLOWS FROM OPERATING ACTIVITIES		
Collection of net revenues from Tenant	\$ 4,986,451	\$ 4,140,493
Payments for goods and services in excess of Tenant advances	(6,582)	--
Tenant advances for goods and services in excess of payments	--	2,122
Net cash provided by operating activities	<u>4,979,869</u>	<u>4,142,615</u>
CASH FLOWS FROM INVESTING ACTIVITIES		
Interest received	137,709	92,973
Settlement received	470	1,443
Distributions paid to Venturers	(4,000,000)	(4,000,000)
Net cash used in investing activities	<u>(3,861,821)</u>	<u>(3,905,584)</u>
NET INCREASE IN CASH AND CASH EQUIVALENTS	1,118,048	237,031
Cash and cash equivalents, beginning of year	8,897,571	8,660,540
Cash and cash equivalents, end of year	\$ 10,015,619	\$ 8,897,571
 RECONCILIATION OF NET OPERATING INCOME TO NET CASH PROVIDED BY OPERATING ACTIVITIES		
Net operating income	\$ 5,053,453	\$ 3,907,008
Adjustments to reconcile net operating income to net cash provided by operating activities:		
Depreciation	108,030	108,030
Changes in:		
Receivable from Tenant	(175,032)	125,455
Accounts payable	4,836	1,188
Excess Tenant advances	(11,418)	934
Total adjustments to reconcile net operating income to net cash provided by operating activities	<u>(73,584)</u>	<u>235,607</u>
NET CASH PROVIDED BY OPERATING ACTIVITIES	\$ 4,979,869	\$ 4,142,615

See accompanying notes to the basic financial statements.

**INTERMODAL CONTAINER TRANSFER FACILITY
JOINT POWERS AUTHORITY**

Notes to the Basic Financial Statements

June 30, 2019 and 2018

1. Organization and Summary of Significant Accounting Policies

A. Organization

The Intermodal Container Transfer Facility Joint Powers Authority (Authority) was formed in 1983 pursuant to an agreement between the Ports of Los Angeles and Long Beach, California (Venturers) for purposes of financing and constructing the Intermodal Container Transfer Facility (Facility) and leasing the Facility to Southern Pacific Transportation Company (subsequently, a wholly owned subsidiary of Union Pacific Corporation) (Tenant). The agreement has a term of 50 years. The Facility commenced operations on November 17, 1986.

The Authority's principal source of income is from Tenant lease payments. Scheduled lease payments are allocated from "Net Facility Revenues" arising from the Facility's operations. While bonds are outstanding, the term "Net Facility Revenues" is defined as revenues received (which are forwarded monthly by the Tenant to the bond trustee) less payments of principal, premiums, and interest on the bond indebtedness, reimbursements of operating expenses of the Authority (up to \$0.1 million a year as adjusted for inflation), payments of trustee fees, registrar, paying agent fees, and fees charged by any credit facility obtained in connection with the bonds paid by the Tenant. Net Facility Revenues are distributed by the bond trustee each November based upon revenues received for the fiscal period from November 1 to October 31. After all bonds cease to be outstanding, Net Facility Revenues is calculated as revenues received less reimbursements of operating expenses of the Authority. Net Facility Revenues are distributed by the Tenant each month in arrears fifteen days after the end of each month.

Net Facility Revenues are shared, in accordance with the lease, as follows:

<u>Date</u>	<u>Portion of net revenue accruing to the Authority</u>
Until contribution repayment date, determined to be May 1, 1992	In proportion to contributions made between the Tenant and the Authority, which are 88.09% and 11.91%, respectively
For the period from the repayment date until aggregate net revenues not paid to the Authority exceed by \$12,300,000 the aggregate amount paid to the Authority (Minimum Aggregate Return):	
From the repayment date until the second anniversary after repayment	25%
From the second to the fourth anniversary after repayment	30%
From the fourth to the sixth anniversary after repayment	35%
From the sixth anniversary until the Minimum Aggregate Return is met	45%
Remainder of lease term	50%

**INTERMODAL CONTAINER TRANSFER FACILITY
JOINT POWERS AUTHORITY**

Notes to the Basic Financial Statements

June 30, 2019 and 2018

(Continued)

The contribution repayment date is defined as the date at which Net Facility Revenues equaled the Tenant's contributions to the Facility. The Minimum Aggregate Return was met on or about June 1, 1994; accordingly, Net Facility Revenues are now shared equally.

B. Significant Accounting Policies

The Ports of Long Beach and Los Angeles, the two Venturers, provide administrative and financial services, respectively, at no cost to the Authority. At the beginning of each fiscal year, The Tenant advances funds to the Authority to cover the budgeted operating expenses for the year. Such advance is reimbursed to the Tenant in the Annual Distribution of Net Revenues to the Authority.

Method of Accounting – The Authority is accounted for as an enterprise fund, and as such, its basic financial statements are presented using the economic resources measurement focus and the accrual method of accounting. Under this method of accounting, revenues are recognized when earned and expenses are recorded when liabilities are incurred without regard to receipt or disbursement of cash. The measurement focus is on the determination of changes in net position, financial position, and cash flows. Operating revenues consist of facility rental revenues from the Authority's Tenant. Operating expenses consist of depreciation expense on the Authority's capital assets. All revenues and expenses not meeting this definition are reported as nonoperating revenues and expenses.

The Authority uses the accrual method of accounting. Accordingly, uncollected facility revenues earned are included in the determination of receivables due from Tenant in the accompanying basic financial statements.

Capital Assets – Capital assets represent the Authority's initial contribution toward the development and construction of the Facility. No further contributions are required. All additional costs will be paid by the Tenant. Depreciation of the Facility is computed using the straight-line method over the estimated useful life of the asset. The estimated useful life of the Facility is 50 years.

Cash and Investments – In order to maximize investment return, the Authority invests its excess cash in the City of Long Beach's cash and investment pool that is used as a demand deposit account by participating units of the pool. Investment decisions are made by the City Treasurer of the City of Long Beach, California. The Authority's investments, including its equity in the City of Long Beach's cash and investment pool, are stated at fair value.

Interest income and realized gains and losses arising from the pooled cash and investments are apportioned to each participating unit of the pool on a pro rata basis based on average daily balances. The change in fair value of the pooled investments is also allocated to each participating unit based on average daily balances.

**INTERMODAL CONTAINER TRANSFER FACILITY
JOINT POWERS AUTHORITY**

Notes to the Basic Financial Statements

June 30, 2019 and 2018

(Continued)

Statements of Cash Flows – For purposes of the statements of cash flows, the Authority considers investments with an initial maturity of three months or less, including its investments in the City of Long Beach's cash and investment pool, to be cash equivalents.

Net Position – The Authority's equity is reported as net position, which is classified into the following categories:

- *Investment in capital assets* – This category consists of capital assets, net of accumulated depreciation.
- *Restricted* – This category consists of restrictions placed on net position use through external constraints imposed by creditors (such as debt covenants), grantors, contributors, or law or regulations of other governments. Constraints may also be imposed by law or constitutional provisions or enabling legislation.
- *Unrestricted* – This category consists of net position that do not meet the definition of "restricted" or "investment in capital assets."

When both restricted and unrestricted resources are available for use, it is the Authority's policy to use unrestricted resources as needed and restricted resources for the purpose for which the restriction exists.

Use of Estimates – The preparation of the basic financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect certain reported amounts and disclosures. Accordingly, actual results could differ from those estimates.

New GASB Pronouncement

GASB Statement No. 87, "Leases." Issued in June 2017, this statement increases the usefulness of a government's financial statements by requiring recognition of certain lease assets and liabilities for leases that previously were classified as operating leases and recognized as inflows of resources or outflows of resources based on payment provisions of the contract. It also establishes a single model for lease accounting based on the foundational principle that leases are financings of the right to use an underlying asset. The statement will be effective beginning fiscal year 2021. The impact on the financial statements is being evaluated.

**INTERMODAL CONTAINER TRANSFER FACILITY
JOINT POWERS AUTHORITY**

Notes to the Basic Financial Statements

June 30, 2019 and 2018

(Continued)

2. Cash and Cash Equivalents

The Authority's cash and cash equivalents consisted of deposits with the City of Long Beach's Treasury, and deposits with an independent financial institution, all of which are presented in the accompanying basic financial statements at fair value. At June 30, 2019 and 2018, the cash and cash equivalents balances consisted of the following:

	2019	2018
Cash with financial institution	\$ 270,958	\$ 292,235
City of Long Beach's cash and investment pool	9,744,661	8,605,336
Total cash and cash equivalents	\$ 10,015,619	\$ 8,897,571

Authorized Investments

The Authority does not have its own investment policy but follows the City of Long Beach's investment policy. At June 30, 2019 and 2018, as permitted by the California Government Code Section 53635, a portion of the Authority's cash balance totaling \$9.7 million and \$8.6 million for fiscal years 2019 and 2018, respectively, was on deposit in the City of Long Beach's investment pool. The table below identifies the investment types that are authorized by the City of Long Beach's investment policy. The City of Long Beach's investment policy also requires the diversification of investment instruments in accordance with the guidelines of the California Government Code Section 53600 et seq. to avoid incurring unreasonable risks inherent in over investing in specific instruments, individual financial institutions, or maturities.

Type of Investments	Maximum Maturities	Maximum Concentration	Maximum Investment in One Issuer
Bonds issued by the City of Long Beach	5 years*	30%	None
U.S. Treasury Notes, Bonds, or Bills	5 years*	100%	None
Registered State Warrants or Treasury Notes or Bonds of the State of California	5 years*	30%	None
Local Agency Bonds	5 years*	30%	None
Federal Agency Securities	5 years*	100%	None
Bankers' Acceptances	180 days	40%	30%
Commercial Paper	270 days	25%	10%
Negotiable Certificates of Deposit	5 years*	30%	10%
Time Certificates of Deposit	5 years*	100%	10%
Repurchase Agreements	90 days	100%	None
Reverse Repurchase Agreements	92 days	20%	None
Securities Lending Program	92 days	20%	None
Medium-term Notes	5 years*	30%	10%
Money Market Funds	N/A	20%	10%
Local Agency Investment Fund (LAIF)	N/A	100%	**
Asset-backed Securities	5 years	20%	None
Mortgage-backed Securities	5 years	20%	None

* Maximum maturity of five years unless a longer maturity is approved by the City Long Beach

** \$40 million per account

**INTERMODAL CONTAINER TRANSFER FACILITY
JOINT POWERS AUTHORITY**

Notes to the Basic Financial Statements

June 30, 2019 and 2018

(Continued)

Pooled Funds

The Authority's equity in the City of Long Beach's cash and investment pool does not consist of specifically identified cash deposits or securities. Such investments are stated at fair value. Investment in external investment pool is excluded from the disclosure about fair value hierarchy under GASB Statement No. 72, "*Fair Value Measurement and Application*".

A significant portion of the Authority's cash balance is deposited with the City of Long Beach's investment pool which can be withdrawn on demand and without penalty. The City of Long Beach's investment pool does not maintain a credit rating.

Additional information regarding the pool, including the investment portfolio and related interest rate, weighted average maturity of investments, custodial credit, credit, and concentration of credit risks, is presented in the City of Long Beach Comprehensive Annual Financial Report (CAFR). The report may be obtained by writing to the City of Long Beach, Department of Financial Management, 333 West Ocean Boulevard, 6th Floor, Long Beach, California, 90802 or the City of Long Beach's website <http://longbeach.gov/Finance/City-Budget-and-Finances/Accounting/CAFR/>.

Deposits

At June 30, 2019 and 2018, the Authority's carrying amount of cash was \$271.0 thousand and \$292.2 thousand, respectively. The bank balances were \$271.0 thousand and \$292.2 thousand at June 30, 2019 and 2018, respectively. At June 30, 2019 and 2018, there were no reconciling differences in the carrying amount of cash and bank balance. The bank balance is covered by federal depository insurance up to \$250,000. A portion of the bank balance of \$21.0 thousand and \$42.2 thousand were uninsured and uncollateralized at June 30, 2019 and 2018, respectively.

**INTERMODAL CONTAINER TRANSFER FACILITY
JOINT POWERS AUTHORITY**

Notes to the Basic Financial Statements

June 30, 2019 and 2018

(Continued)

3. Net Position

Pursuant to the agreement creating the Authority, the Venturers were required to make a capital contribution of \$5.0 million each in 1983. In addition, the Port of Los Angeles contributed services and other direct costs amounting to approximately \$0.4 million in 1988. During fiscal years 2019 and 2018, \$4.0 million and \$4.0 million, respectively, were distributed in equal shares to the Venturers.

At June 30, 2019 and 2018, the changes in joint venture net position are as follows:

	Port of <u>Los Angeles</u>	Port of <u>Long Beach</u>	<u>Total</u>
Balance at June 30, 2017	\$ 5,732,302	\$ 5,373,664	\$ 11,105,966
Operating and nonoperating income	2,000,712	2,000,712	4,001,424
Distribution to Venturers	<u>(2,000,000)</u>	<u>(2,000,000)</u>	<u>(4,000,000)</u>
Balance at June 30, 2018	5,733,014	5,374,376	11,107,390
Operating and nonoperating income	2,595,816	2,595,816	5,191,632
Distribution to Venturers	<u>(2,000,000)</u>	<u>(2,000,000)</u>	<u>(4,000,000)</u>
Balance at June 30, 2019	<u>\$ 6,328,830</u>	<u>\$ 5,970,192</u>	<u>\$ 12,299,022</u>

4. Excess Tenant Advances

The Authority has received advances from the Tenant to cover its contractual administrative costs for the years ended June 30, 2019 and 2018. Advances have exceeded expenses by \$73.2 thousand and \$84.6 thousand in fiscal years 2019 and 2018, respectively, and have been recorded as liabilities due to the Tenant.

5. Capital Assets

At June 30, 2019 and 2018, capital assets consisted of the following:

	<u>2019</u>	<u>2018</u>
Authority's interest in Facility		
Property and equipment	\$ 5,401,520	\$ 5,401,520
Furniture and fixtures	10,650	10,650
Total capital assets	<u>5,412,170</u>	<u>5,412,170</u>
Less accumulated depreciation	<u>(3,541,372)</u>	<u>(3,433,342)</u>
Total capital assets, net	<u>\$ 1,870,798</u>	<u>\$ 1,978,828</u>

In fiscal years 2019 and 2018, there were no capital assets additions or retirements. The only changes were related to annual depreciation provisions. Depreciation expense was \$108.0 thousand for both years ended June 30, 2019 and 2018.

**INTERMODAL CONTAINER TRANSFER FACILITY
JOINT POWERS AUTHORITY**

Notes to the Basic Financial Statements

June 30, 2019 and 2018

(Continued)

6. Additional Street Improvements Contingency

Concurrent with the issuance of a conditional use permit and parcel map by the City of Carson for that portion of the Facility located in the City of Carson, the Authority, the Tenant, and the City of Carson entered into an agreement dated December 3, 1984, whereby the Authority and Tenant are required to make certain street improvements to certain Carson streets that adjoin the Facility. During fiscal year 1996, the City of Carson received grants for a number of these street improvements, partially reducing the obligation of the Authority for such improvements. The Authority's remaining share of construction obligations for the street improvements (including maintenance costs) is approximately \$2.3 million as of June 30, 2019. The project is currently pending environmental review. The Tenant made payments directly to the City of Carson for maintenance fees of \$119.2 thousand and \$113.2 thousand for fiscal years 2019 and 2018, respectively.



DATE: September 09, 2020

TO: Governing Board, Intermodal Container Transfer Facility Joint Powers Authority

FROM: Richard D. Cameron, Executive Director

SUBJECT: Net Facility Revenue Report for Annual Period Ending November 1, 2019

Macias, Gini & O'Connell LLP (MGO) has completed their review of Intermodal Container Transfer Facility Joint Powers Authority (ICTF JPA) net revenue for the year ended November 1, 2019. During the year, there were 389,898 gross container movements, generating \$11,696,940 in gross revenue. This is a 22.1% increase from 2018. Gate fees collected at the Intermodal Container Transfer Facility (ICTF), less allowable deductions, resulted in net facility revenue of \$10,884,550 to be equally shared by the ICTF JPA and Union Pacific Railroad. Union Pacific transfers a 50% share of the facility's net revenues on an ongoing quarterly basis.

The final draft of the net facility revenue report is attached. The auditors and ICTF JPA staff are in full agreement on all issues.

It is recommended that the Governing Board receive and file the draft net facility revenue report for the year ended November 1, 2019.

It is also recommended that the Board make the following finding:

“The Board finds the activity is administrative activity that will not result in direct or indirect physical changes in the environment, and, as such, is not a “project” as defined by CEQA Guidelines section 15378.”

Richard D. Cameron

Richard D. Cameron
Executive Director



**INTERMODAL CONTAINER TRANSFER
FACILITY JOINT POWERS AUTHORITY**
**Agreed-Upon Procedures with Respect to
Calculation of Net Facility Revenues
Year Ended November 1, 2019**
**(with Independent Accountant's Report on
Applying Agreed-Upon Procedures)**



Certified
Public
Accountants



Independent Accountant's Report on Applying Agreed-Upon Procedures

To the Board of Directors
Intermodal Container Transfer Facility Joint Powers Authority:

We have performed the procedures enumerated below, which were agreed to by management of the Intermodal Container Transfer Facility Joint Powers Authority (the Authority) (specified and responsible party) and Union Pacific Corporation (UPC), as successor to Southern Pacific Transportation Company (SPTC), solely to assist the Authority with respect to the determination of and evaluation of the reasonableness of Net Facility Revenues, as defined in the second amendment to the Sublease Agreement dated February 1, 1985 of the Intermodal Container Transfer Facility (the Facility), as reported by UPC for the year ended November 1, 2019. The Sublease Agreement, dated September 14, 1984 and subsequently amended, between the Authority and UPC, as successor in interest to SPTC (the Agreement), provides for certain rental payments, which are based on Net Facility Revenues generated by the operations of the Facility, to be made by UPC to the Authority. The Authority's management is responsible for the Exhibit, *Calculation of Net Facility Revenues Using Amounts Determined Based on the Agreed-Upon Procedures and Comparison to Net Facility Revenues Reported by UPC*. The sufficiency of these procedures is solely the responsibility of the Authority. Consequently, we make no representation regarding the sufficiency of the procedures enumerated below either for the purpose for which this report has been requested or for any other purpose.

The procedures and associated findings are as follows:

1. We obtained the Monthly Statement of Operations prepared by UPC accounting personnel listing net revenues from the operations of the Facility, including amounts that had been billed and not yet collected, for the year ended November 1, 2019. We recalculated the arithmetical accuracy of the schedules received. We agreed the total net revenues for the year ended November 1, 2019 to the Net Facility Revenues on the accompanying Exhibit.

Finding: No exceptions were noted as a result of applying these procedures.

2. In conjunction with the calculation of Net Facility Revenues in the Exhibit, we performed the following procedures:
 - A. We obtained monthly reports on gross container movements from UPC for the year ended November 1, 2019. We totaled the monthly amounts from such reports and determined that 389,898 gross container movements had been reported at the Facility during the year ended November 1, 2019. We multiplied the number of reported containers moved by \$30 (the amount charged for each container transfer). From this calculation, we recalculated Total Facility Revenues generated of \$11,696,940 and agreed such amounts to the Total Facility Revenues generated, based on gross gate movements on the Exhibit for the year ended November 1, 2019.

Finding: No exceptions were noted as a result of applying these procedures.

- B. We reconciled the Total Facility Revenues generated, based on gross gate movements for the year ended November 1, 2019, as determined in procedure 2A above, to the sum of Facility Revenues collected by UPC per the Monthly Statement of Operations for container transfers generated by UPC accounting personnel for the year ended November 1, 2019.

Calculation of Net Facility Revenues is based on cash received; therefore, adjustments are required to reconcile the difference between gate charges generated and collected. The adjustment of \$694,140 represents the difference between Facility Revenues generated based on gross gate movements and Facility Revenues collected for the year ended November 1, 2019. We totaled the gross container movements for which gate charges were collected from the Monthly Statement of Operations prepared by UPC accounting personnel and determined that 366,760 gross container movements for which gate charges were collected at the Facility during the year ended November 1, 2019.

We multiplied the number of gross containers movements for which gate charges were collected by \$30 (the amount charged for each container transfer). From this calculation, we recalculated Facility Revenues collected by UPC of \$11,002,800. Such amounts agreed to the accompanying Exhibit.

Finding: No exceptions were noted as a result of applying these procedures.

- C. The Agreement allows for deduction of amounts paid to the Authority for reimbursement of its operating expenses during the year.

Finding: We noted no deduction of amounts paid to the Authority for reimbursement of its operating expenses for the year ended November 1, 2019.

- D. We agreed payments to the City of Carson for maintenance fees on the Exhibit aggregating \$118,250 for such fees for the year ended November 1, 2019, to checks and paid invoices.

Finding: No exceptions were noted as a result of applying these procedures.

- E. The Agreement also allows for deduction of amounts paid to the bond rating agencies such as Moody's Investors Services or Standard & Poor's for their analytical services.

Finding: We noted no deduction of amounts paid to the bond rating agencies for the year ended November 1, 2019.

This agreed-upon procedures engagement was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants. We were not engaged to, and did not, conduct an examination or review, the objective of which would be the expression of an opinion or conclusion, respectively on the reported Net Facility Revenues for the year ended November 1, 2019. Accordingly, we do not express such an opinion or conclusion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

This report is intended solely for the information and use of the Board of Directors and management of the Authority and UPC, and is not intended to be, and should not be, used by anyone other than these specified parties.

Macias Gini & O'Connell LLP

Los Angeles, California
May 6, 2020

**INTERMODAL CONTAINER TRANSFER FACILITY
JOINT POWERS AUTHORITY**

Calculation of Net Facility Revenues Using Amounts Determined
Based on the Agreed-Upon Procedures and
Comparison to Net Facility Revenues Reported by UPC

Year Ended November 1, 2019

Facility revenue collected:

Total facility revenues generated, based on gross gate movements	\$ 11,696,940
Amounts not billed, adjustments to billing, and change in facility revenue receivable, net	<u>(694,140)</u>
Net Facility revenues collected by UPC	<u>11,002,800</u>

Less allowable deductions:

Payment to the City of Carson on behalf of the Authority for maintenance fees	<u>118,250</u>
Total allowable deductions	<u>118,250</u>
Net Facility Revenues using amounts determined based on the agreed-upon procedures	<u>\$ 10,884,550</u>



DATE: September 09, 2020

TO: Governing Board, Intermodal Container Transfer Facility Joint Powers Authority

FROM: Richard D. Cameron, Executive Director

SUBJECT: 2020-2021 Budget and Distribution of Funds

The proposed 2020-2021 budget of \$2.42 million for the Intermodal Container Transfer Facility Joint Powers Authority (ICTF JPA) is attached.

Operating expenses for items such as legal and consulting services, audit fees, meeting expenses, and miscellaneous expenses are reimbursable by Union Pacific Railroad Company (UP) up to \$100,000 annually. These budgeted expenses for 2020-2021 are estimated to total \$68,100 which will be requested from UP. UP also advances funds for the City of Carson maintenance costs, which totaled \$119,243 in fiscal 2019-2020 and are estimated to decrease by 6.8% to \$111,145 in fiscal 2020-2021 based on the Producer Price Index for May 2020.

The \$2.25 million capital improvement item is included for the ICTF JPA's share of construction obligations under the City of Carson agreement. Carson is preparing to widen Sepulveda Boulevard between Alameda Street and the ICTF entrance. This project has been delayed but could be advertised for bidding in the current fiscal year.

The net revenue distribution from the tenant, UP, is received on a quarterly basis. The cash balance of the Joint Powers Authority at the end of fiscal 2019-2020 before any distribution to partners is estimated to be \$10.01 million. This exceeds the anticipated needs for fiscal 2020-2021.

A distribution of \$4 million to the two Ports would leave a balance of approximately \$6.8 million to be carried over to fiscal 2021-2022. This balance is deemed necessary in light of expected cash flow needs related to ICTF JPA operations.

It is recommended that the ICTF JPA Governing Board adopt 2020-2021 budget in the amount of \$2,429,245 and authorize distribution of \$4,000,000 to be shared equally (\$2,000,000 to each) by the Port of Long Beach and the Port of Los Angeles.

It is also recommended that the Board make the following finding:

“The Board finds the activity is administrative activity that will not result in direct or indirect physical changes in the environment, and, as such, is not a “project” as defined by CEQA Guidelines section 15378.”



Richard D. Cameron

Richard D. Cameron
Executive Director

	Estimated Actual June 30, 2020	Adopted 2019-2020	Proposed 2020-2021
Beginning Cash Balance	10,015,618	\$8,471,434	\$11,045,879
Facility Revenue Received	4,889,810	3,500,000	4,000,000
UP reimbursement for EIR	27,946	40,990	48,000
Facility Maintenance Fee	119,243	118,245	111,145
Interest	140,451	20,000	75,000
UP Advance for admin expenses	17,761	20,100	20,100
	<u>\$15,210,829</u>	<u>\$12,170,769</u>	<u>\$15,300,124</u>
Less Expenditures			
Rating Agency Fee	-	-	-
City of Carson - Maintenance Fee	119,243	118,245	111,145
City of Carson - Capital Improvements	-	2,250,000	2,250,000
Environmental & Legal Services	27,946	40,990	48,000
Other Operating Expenses	17,761	20,100	20,100
Distribution to Partners	4,000,000	4,000,000	6,000,000
	<u>\$4,164,950</u>	<u>\$6,429,335</u>	<u>\$8,429,245</u>
Ending Cash Balance	\$11,045,879	\$5,741,434	\$6,870,879



DATE: September 09, 2020

TO: Governing Board, Intermodal Container Transfer Facility Joint Powers Authority

FROM: Richard D. Cameron, Executive Director

SUBJECT: Fourth Amendment to Contract with EnSafe, Inc.

The proposed fourth amendment to the contract with EnSafe Inc. (“EnSafe”) is for continued project management and support services as related to the Intermodal Container Transfer Facility (ICTF) JPA contract, compliance and project support, including the Modernization and Expansion Project. The agreement provides for logistical support and coordination with JPA Staff and its consultants for the preparation of the Environmental Impact Report (EIR).

The EnSafe Fourth amendment would extend the term of the contract by three years terminating September 2, 2023 and would increase the compensation by \$150,000 from \$183,296 to \$333,296.

Staff recommends that the ICTF JPA Board approve the Fourth amendment to extend the term and increase compensation of the EnSafe contract. In addition, Staff requests that the Board ratify the effective date of the Fourth amendment retroactive to August 1, 2020 to authorize EnSafe’s work supporting the preparation for and support of the September 9, 2020 annual board meeting.

It is also recommended that the Board make the following finding:

“The Board finds the activity is administrative activity that will not result in direct or indirect physical changes in the environment, and, as such, is not a “project” as defined by CEQA Guidelines section 15378.”

Richard D. Cameron

Richard D. Cameron
Executive Director

FOURTH AMENDMENT TO AGREEMENT BETWEEN
THE INTERMODAL CONTAINER TRANSFER FACILITY
JOINT POWERS AUTHORITY AND
ENSAFE, INC.

This Fourth Amendment to Agreement dated as of August 1, 2020 ("Effective Date"), is entered into between the INTERMODAL CONTAINER TRANSFER FACILITY JOINT POWERS AUTHORITY, a Joint Powers Authority ("ICTF") and ENSAFE, INC. ("Consultant") whose address is 5001 Airport Plaza Drive, Suite 260, Long Beach, CA 90815.

WHEREAS, ICTF and E2Managetech, Inc. ("E2") entered into an Agreement dated September 3, 2014 ("Agreement") for E2 to provide professional, scientific, expert or technical services to assist the ICTF with the ICTF Modernization Project ("Project"); and

WHEREAS, the Agreement was amended by the parties pursuant to a First Amendment dated December 10, 2014; and a Second Amendment dated November 9, 2016 and a Third Amendment dated April 20, 2017 that assigned the Agreement by E2 to Consultant;

WHEREAS, the parties desire to amend the Agreement to provide for the, and the assumption of the Agreement by Consultant, with no change in terms or conditions.

NOW, THEREFORE, IT IS MUTUALLY AGREED that the Agreement is hereby amended as follows:

1. Section III Effective Date and Term of the Agreement, is deleted in its entirety and replaced by the following provision:

"The term of this Agreement shall be a period of nine (9) years, commencing on September 3, 2014 and terminating on September 2, 2023, unless terminated earlier under the provisions of this Agreement."

2. Section V.B. Compensation and Payment, is amended to increase the compensation by \$150,000 from \$183,296 to \$333,296, by deleting the previous provision and replacing it with the following provision:

"The maximum payable under this Agreement, including reimbursable expenses (see Exhibit "B"), shall be Three Hundred Thirty-Three Thousand Two Hundred Ninety-Six Dollars (\$333,296)."

3. "Exhibit B – Compensation Rates and Reimbursable Expenses" to the Agreement, describing scope of work and compensation, is deleted and replaced with the attached Exhibit "B."

Except as amended herein, all remaining terms and conditions of the Agreement as previously amended shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Third Amendment to Agreement on the date to the left of their signatures.

THE INTERMODAL CONTAINER
TRANSFER FACILITY JOINT POWERS
AUTHORITY, a Joint Powers Authority

Dated: _____

By: _____

Executive Director

Attest: _____
Elena Flores, Board Secretary

ENSAFE, INC.
a Tennessee corporation

Dated: 8-24-20

By: 
Don Bradford, President
Print Name and Title

Attest: 
Heather Hill, Contracts Manager
Print/type name and title

APPROVED AS TO FORM AND LEGALITY
_____, 2020

JANNA B. SIDLEY
ICTF General Counsel

2020 PROFESSIONAL FEE SCHEDULE

PROFESSIONALS		PER HOUR
Level 1	Scientist/Engineer	\$85
Level 2	Scientist/Engineer	\$95
	Project Supervisor	\$105
Level 3	Project Scientist/Engineer	\$120
	Project Manager	\$125
Level 4	Project Manager, Senior Scientist/Engineer	\$150
Level 5	Senior Project Manager	\$170
Level 6	Senior Project Director	\$185
Level 7	Associate Principal / Principal	\$225
	Principal	\$245
Level 8	Senior Principal	\$305
TECHNICIANS		PER HOUR
	Technician	\$70
	Senior Technician	\$90
ADMINISTRATIVE SUPPORT		PER HOUR
	Report Specialist	\$53

Note:

A general and administrative fee of 15% is added to Other Direct Costs and Expenses. Rates are subject to a surcharge for short lead-time projects requiring readjustment of professional resources. Fees for litigation or acquisition support are negotiated on an individual basis. Rates are subject to annual review. All internal copying, computer usage, and report materials are included in the above rates unless otherwise negotiated.



DATE: September 09, 2020

TO: Governing Board, Intermodal Container Transfer Facility Joint Powers Authority

FROM: Richard D. Cameron, Executive Director

SUBJECT: Authorization of Southern California Edison License Agreement

The Intermodal Container Transfer Facility Joint Powers Authority (ICTF JPA) has maintained a soundwall located North of Willow/Sepulveda Long Beach, California on property owned by Southern California Edison (SCE), as required noise mitigation for the ICTF facility operated by Union Pacific. SCE has granted ICTF JPA a license to use such real property for a soundwall pursuant to a Soundwall License Agreement. The current license agreement commenced on October 1, 2015 and expires on September 30, 2020. SCE has prepared a successor License Agreement (Agreement) to cover the term October 1, 2020 through September 30, 2025. The License Agreement requires full term payment in the sum of \$2,300 and evidence of insurance. The new proposed SCE License Agreement is attached.

It is recommended that the ICTF JPA Board approve the License Agreement with Southern California Edison for the licensing of an existing sound wall located on SCE property adjacent to the ICTF property.

It is also recommended that the Board make the following finding:

“The Board finds the activity is administrative activity that will not result in direct or indirect physical changes in the environment, and, as such, is not a “project” as defined by CEQA Guidelines section 15378.”

Richard D. Cameron

Richard D. Cameron
Executive Director



Aaron Brown
Right of Way Agent
Metro Region
Land Management/Real Properties

June 19, 2020

ATTN: Adriana Sanchez
Intermodal Container Transfer Facility c/o Port of Long Beach
PO Box 570
Long Beach, CA 90801

Subject: Subsequent License Agreement for Signature(s)
Licensee: Intermodal Container Transfer Facility c/o Port of Long Beach
License Agreement: 9.3679

Dear Ms. Sanchez,

Per our prior communication, a subsequent License Agreement is enclosed for a continuance of your secondary land use on Southern California Edison Company ("SCE") - owned property, under the following terms.

This offer is for an additional 5 year term beginning October 1, 2020 through September 30, 2025.

As per your current Agreement with SCE, you are required to secure and maintain an insurance policy, naming Southern California Edison Company as an additional insured, and to provide evidence of such insurance annually, prior to insurance expiration. Please return a current copy of your insurance certificate.

Please be advised that if your site has changed since your prior site plan was approved, you will be required to provide a dimensional or scaled site plan that must be approved before a license can be fully executed.

Please find enclosed the SCE License Agreement for your review and appropriate execution. **Once (2) agreements are signed and initialed by both signers, please send both originals back to me, along with a copy of your Certificate of Insurance (outlined in Article 4)** at the following address:

Southern California Edison
2 Innovation Way
2nd Floor (Land Management)
Pomona, CA 91768
ATTN: Aaron Brown

Thank you for your continued business and should you have any questions, please do not hesitate to contact me at: (909) 274-1932 or Aaron.Brown@sce.com.

Sincerely,

A handwritten signature in blue ink that reads "Aaron Brown".

Aaron Brown
Right of Way Agent

INTERMODAL CONTAINER TRANSFER FACILITY C/O PORT OF LONG BEACH

L I C E N S E A G R E E M E N T
I N D E X O F A R T I C L E S

- 1. USE
- 2. TERM
- 3. CONSIDERATION
- 4. INSURANCE
- 5. LICENSOR’S USE OF THE PROPERTY
- 6. LICENSEE’S IMPROVEMENTS
- 7. LICENSEE’S PERSONAL PROPERTY
- 8. HEIGHT LIMITATIONS AND VERTICAL CLEARANCES
- 9. ACCESS AND CLEARANCES
- 10. PARKING
- 11. WEEDS, BRUSH, RUBBISH AND DEBRIS (WEED ABATEMENT)
- 12. FLAMMABLES, WASTE AND NUISANCES
- 13. PESTICIDES AND HERBICIDES
- 14. HAZARDOUS WASTE
- 15. SIGNS
- 16. FENCING AND EXISTING FIXTURES
- 17. PARKWAYS AND LANDSCAPING
- 18. IRRIGATION EQUIPMENT
- 19. UNDERGROUND TANKS
- 20. UNDERGROUND FACILITIES
- 21. UTILITIES
- 22. TAXES, ASSESSMENTS AND LIENS
- 23. EXPENSE
- 24. ASSIGNMENTS
- 25. COMPLIANCE WITH LAW
- 26. GOVERNING LAW
- 27. INDEMNIFICATION
- 28. TERMINATION
- 29. EVENTS OF DEFAULT
- 30. REMEDIES
- 31. LICENSEE’S PERSONAL PROPERTY UPON TERMINATION OR EXPIRATION
- 32. LIMITATION OF LIABILITY
- 33. NON-POSSESSORY INTEREST
- 34. WAIVER
- 35. AUTHORITY
- 36. ELECTRIC AND MAGNETIC FIELDS

Initial (____)/(____/____)
Licensor/Licensee

37. INDUCED VOLTAGES

38. NOTICES

39. RECORDING

40. COMPLETE AGREEMENT

41. SIGNATURE AUTHORITY

42. SURVIVAL

APPENDIX: GUIDELINES FOR STANDARD LICENSEE IMPROVEMENTS

ADDENDUM(S)

Initial (____)/(____/____)
Licensor/Licensee

LICENSE AGREEMENT

THIS AGREEMENT between SOUTHERN CALIFORNIA EDISON COMPANY, a corporation organized under the laws of the State of California, called "Licensor", and INTERMODAL CONTAINER TRANSFER FACILITY C/O PORT OF LONG BEACH, called "Licensee";

WITNESSETH: That Licensor, for and in consideration of the faithful performance by Licensee of the terms, covenants and agreements hereinafter set forth to be kept and performed by Licensee, does hereby give to Licensee the license to use that certain real property solely for the purpose hereinafter specified, upon and subject to the terms, reservations, covenants and conditions hereinafter set forth, hereinafter designated as "Property" on the Exhibit "A" attached hereto and made a part hereof, being a portion of Assessor's Parcel Numbers 7317-015-800 amd 7317-015-801, situated in the City of Long Beach, County of Los Angeles, State of California, subject to any and all covenants, restrictions, reservations, exceptions, rights and easements, whether or not of record.

Acknowledgment of License and Disclaimer of Tenancy

Licensee acknowledges and agrees that the License constitutes a limited, revocable, non-possessory, personal and non-assignable privilege to use the Property solely for those permitted uses and activities expressly identified in the Agreement (the "License Privilege"). Licensee further acknowledges and agrees that:

- The consideration paid by Licensee pursuant to Article 3 of the Agreement is consistent with the value of the rights comprising the License Privilege; the consideration is *not* consistent with the higher market value for a greater right, privilege or interest (such as a lease) in the Property or similarly situated parcels.
- Licensee is not a tenant or lessee of Licensor and holds no rights of tenancy or leasehold in relation to the Property.
- The Agreement and/or any prior and/or future acts or omissions of Licensor shall not create (or be construed as creating) a leasehold, tenancy or any other interest in the Property.
- Licensor may terminate the License and revoke the License Privilege at any time, subject, if applicable, to a notice period agreed upon by the parties, as more particularly set forth in the Agreement.
- In consideration of Licensor's grant of the License, Licensee specifically and expressly waives, releases and relinquishes any and all right(s) to assert any claim of right, privilege or interest in the Property other than the License.
- Licensee further acknowledges and agrees that without the representations and agreements set forth herein, Licensor would not enter into the Agreement.

Initial (____)/(____/____)
Licensor/Licensee

1. Use: Licensee will use the Property for soundwall purposes only. Licensor makes no representation, covenant, warranty or promise that the Property, and any fixtures thereon, are fit or suitable for any particular use, including the use for which this Agreement is made and Licensee is not relying on any such representation, covenant, warranty or promise. Licensee’s use of the property for any other purpose and/or failure to utilize the Property in accordance with this License as determined by the Licensor in its sole discretion will be deemed a material default and grounds for immediate termination of this Agreement in accordance with Articles 28 and/or 30.

2. Term: Unless otherwise terminated as provided herein, this Agreement will be in effect for a term of five (5) years commencing on the first day of October, 2020 and ending on the last day of September, 2025. Licensee acknowledges that this Agreement does not entitle Licensee to any subsequent agreement, for any reason whatsoever, regardless of the use Licensee makes of the Property, the improvements Licensee places on or makes to the Property, or for any other reason.

3. Consideration: Licensee will pay to Licensor the sum of Two Thousand Nine Hundred Sixteen and 14/100 Dollars (\$2,916.14) upon the execution and delivery of this Agreement for the full term of this Agreement. Payment to Licensor must be in the form of a check or money order payable to Southern California Edison Company. No cash payments will be accepted by Licensor.

All accounts not paid by the agreed upon due date may be subject to a late fee of up to 20% of the amount that was due on the date.

All payments subsequent to the initial payment will be paid to the Southern California Edison Company, Post Office Box 800 Rosemead, California, 91770, and Attention: Corporate Accounting Department – Accounts Receivable.

4. Insurance: During the term of this Agreement, Licensee shall maintain the following insurance:

- (a) Commercial General Liability Insurance, including contractual liability and products liability, with limits not less than \$1,000,000.00 per occurrence and \$1,000,000.00 in the aggregate. Such insurance shall: (i) name Licensor, its officers, agents and employees as additional insureds, but only for Licensee’s negligent acts or omissions; (ii) be primary for all purposes and (iii) contain separation of insureds or cross-liability clause, and (iv) require its insurer to waive all rights of subrogation against Licensor, its officers, agents and employees, except for any liability resulting from the willful or grossly negligent acts of the Licensor.

The failure to maintain such insurance may be deemed by Licensor a material default of this Agreement and grounds for immediate termination pursuant to Articles 28 and/or 30. Licensee shall provide Licensor with proof of such insurance by submission of certificates of insurance, pursuant to Article 38 “Notices”, at least ten days prior to the effective date of this Agreement, and thereafter at least ten days prior to each insurance renewal date. Licensee must provide Licensor at least thirty (30) days notice before any such insurance will be canceled, allowed to expire, or materially reduced. However, in the event insurance is canceled for the non-payment of a premium, Licensee must provide to Licensor at least ten (10) days’ prior written notice before the effective date of cancellation. The required insurance policies shall be maintained with insurers reasonably satisfactory to Licensor, and shall be primary and non-contributory with any insurance or self-insurance maintained by Licensor.

Initial (____)/(____/____)
Licensor/Licensee

5. Licensor's Use of the Property: Licensee agrees that Licensor, its successors and assigns, have the right to enter the Property, at all times, for any purpose, and the right to conduct any activity on the Property. Exercise of these rights by Licensor, its successors and assigns, will not result in compensation to Licensee for any damages whatsoever to personal property, structures, and/or crops located on the Property, nor shall Licensee be entitled to any compensation for any loss of use of the Property or a portion thereof, and/or any related damages, as a result of Licensor's activities under this Article.

6. Licensee's Improvements: Licensee must submit, for Licensor's prior written approval, complete improvement plans, including, but not limited to, grading, lighting, landscaping, grounding, and irrigation plans, - identifying all existing and proposed improvements, a minimum of sixty (60) days prior to making any use of the Property. Licensee's conceptual plans for proposed improvements shall be developed in accordance with the guidelines contained in the Appendix to this License. It is understood and agreed that the general guidelines contained in the Appendix are intended to provide a framework for the development of conceptual plans only; and that Licensor may modify or add to the conditions contained in the Appendix hereto, based on individual site characteristics, Licensor's existing or potential operating needs or Licensee's proposed use(s). Licensee must submit, for Licensor's prior written approval plans for any modifications to such improvements. Written approval may be modified and/or rescinded by Licensor for any reason whatsoever.

To the extent Licensor reviews and/or approves any improvement plans, Licensor is doing so only for purposes of determining whether said improvements are compatible with Licensor's use of the Property. Under no circumstances shall such review and/or approval be construed as a warranty, representation, or promise that the Property is fit for the proposed improvements, or that said improvements comply with any applicable city, state, or county building requirements, other legal requirements, or the generally accepted standard of care.

At any time, Licensor may require Licensee to modify and/or remove any or all such previously approved improvements at Licensee's risk and expense and without compensation from Licensor. Licensor is not required, at any time, to make any repairs, improvements, alterations, changes or additions of any nature whatsoever to the Property and/or any fixtures thereon. Licensee expressly acknowledges that any expenditures or improvements will in no way alter Licensor's right to terminate in accordance with Articles 28, and/or 30.

7. Licensee's Personal Property: (i) Licensor grants Licensee permission to place Licensee's personal property on the Property consistent with the use identified in Article 1 and other terms of this Agreement. Such permission granted by Licensor shall be revoked upon the earlier of the termination or expiration of this Agreement. All equipment and other property brought, placed or erected on the Property by Licensee shall be and remain the property of Licensee, except as otherwise set forth herein. Licensee shall be responsible for any damage to the Property and/or Licensor's personal property arising out of Licensee's activities on the Property, including its use and/or removal of Licensee's personal property. Licensee further acknowledges and agrees that Licensor is not responsible for Licensee's personal property during the effectiveness of this Agreement, or upon termination or expiration. Licensor further assumes no duty or obligation to maintain or secure Licensee's personal property at any time.

(ii) Unless as specifically provided for in an Addendum to this Agreement, Licensee shall not store on the Property, for a period longer than twenty-four (24) consecutive hours, any personal property owned by a non-party to this Agreement.

Initial (____)/(____/____)
Licensor/Licensee

Licensee will defend and indemnify Licensor, its directors, officers, agents, subcontractors, and employees, and its successors and assigns, from any and all claims, loss, damage, actions, causes of action, expenses and/or liability arising from the storage of, damage to, and/or loss of use of such non-party's personal property.

8. Height Limitations and Vertical Clearances: Any equipment used by Licensee or its agents, employees or contractors, on and/or adjacent to the Property, will be used and operated so as to maintain minimum clearances from all overhead electrical conductors as designated in the table below:

Vehicle/ Equipment Vertical Clearance	
500 kV	35 feet
220 kV – 66kV	30 feet
<66kV (Distribution facilities)	25 feet
Telecom	18 feet

All trees and plants on the Property will be maintained by Licensee at a maximum height of fifteen (15) feet. If requested by Licensor, Licensee will remove, at Licensee's expense, any tree and/or other planting.

9. Access and Horizontal Clearances: Licensee will provide Licensor with adequate access to all of Licensor's facilities on the Property and at no time will there be any interference with the free movement of Licensor's equipment, personnel, and materials over the Property. Licensor may require Licensee to provide and maintain access roads within the Property, at a minimum usable width of sixteen (16) feet, with commercial driveway aprons and curb depressions capable of supporting a gross load of forty (40) tons on a three-axle vehicle. The minimum width of all roads shall be increased on curves by a distance equal to 400/inside radius of curvature. All curves shall have a radius of not less than 50 feet measured at the inside edge of the usable road surface. Unless otherwise specified in writing by Licensor, Licensee will make no use of the area directly underneath Licensor's towers and will maintain the following minimum clearances:

- a. A 50-foot-radius around suspension tower legs, H-Frames and poles and 100-foot radius around dead-end tower legs, H-Frames and poles.
- b. A 25-foot-radius around all other poles.

NOTE: Additional clearance may be required by Licensor for structures.

10. Parking: Licensee will not park, store, repair or refuel any motor vehicles or allow parking, storage, repairing or refueling of any motor vehicles on the Property unless specifically approved in a writing executed by Licensor.

11. Weeds, Brush, Rubbish and Debris (Weed Abatement): Licensee will keep the Property clean, free from weeds, brush, rubbish and debris and in a condition satisfactory to Licensor.

12. Flammables, Waste and Nuisances: Unless permitted by Licensor in writing, Licensee will not, or allow others, to place, use, or store any flammable or combustible materials or waste materials on the Property or commit any waste or damage to the Property or allow any to be done.

Initial (____)/(____/____)
Licensor/Licensee

Licensee will be responsible for the control of and will be liable for any damage or disturbance, caused by any trespasser, dust, odor, flammable or waste materials, noise or other nuisance disturbances. Licensee will not permit dogs on the Property.

13. Pesticides and Herbicides: Any pesticide or herbicide applications and disposals will be made in accordance with all Federal, State, County and local laws. Licensee will dispose of all pesticides, herbicides and any other toxic substances declared to be either a health or environmental hazard, and all materials contaminated by such substances, including but not limited to, containers, clothing and equipment, in the manner prescribed by law.

14. Hazardous Waste: Licensee will not engage in, or permit any other party to engage in, any activity on the Property that violates federal, state or local laws, rules or regulations pertaining to hazardous, toxic or infectious materials and/or waste. Licensee will indemnify and hold Licensor, its directors, officers, agents and employees, and its successors and assigns, harmless from all claims, loss, damage, actions, causes of action, expenses and/or liability arising from leaks of, spills of, and/or contamination by or from hazardous materials as defined by applicable laws or regulations, which may occur during and after the Agreement term, and are attributable to the actions of, or failure to act by, Licensee or any person claiming under Licensee.

15. Signs: Licensee must obtain written approval from Licensor prior to the construction or placement of any sign, signboard or other form of outdoor advertising. Licensee shall within three (3) days from the date on which the Licensee learns of the graffiti remove any signs containing graffiti or shall otherwise remove such graffiti from the signs in a manner reasonably acceptable to Licensor. Notwithstanding any other language in this Article, Licensee shall not advertise on any sign any product, service, or good which is (i) not directly related to Licensee’s use of the Property, (ii) offensive to the public, or (iii) which Licensor, in its reasonable discretion, deems objectionable.

16. Fencing and Existing Fixtures: Licensor disclaims any and all express or implied warranties for any fencing and/or other fixtures affixed to the Property, and further disclaims any liability arising from any disrepair of the same. Licensee may install fencing on the Property with prior written approval from Licensor. Such fencing will include double drive gates, in locations specified by Licensor, a minimum of twenty (20) feet in width, and designed to accommodate separate Licensor and Licensee locks. Licensee will maintain and repair all fencing and other fixtures affixed to the Property, including any grounding of the same as deemed necessary by Licensor, in a manner acceptable to Licensor. Grounding plans must be prepared and stamped by a licensed electrical engineer and submitted to Licensor.

17. Parkways and Landscaping: Licensee will keep parkway and sidewalk areas adjacent to the Property free of weeds, brush, rubbish and debris. Licensee will maintain parkways on the Property and provide landscaping that is compatible with adjoining properties and that is satisfactory to Licensor.

18. Irrigation Equipment: Any irrigation equipment located on the Property prior to the commencement of this Agreement, including but not limited to pipelines, well pumping equipment and other structures, is the property of Licensor and will remain on and be surrendered with the Property upon termination of this Agreement. Should Licensee desire to use the irrigation equipment, Licensee will maintain, operate, repair and replace, if necessary, all irrigation equipment at its own expense.

Initial (____)/(____/____)
Licensor/Licensee

19. Underground and Above-Ground Tanks: Licensee will not install underground or above-ground storage tanks, as defined by any and all applicable laws or regulations, without Licensor's prior written approval.

20. Underground Facilities: Any underground facilities must be approved by Licensor pursuant to Article 6. Licensee must contact Dig Alert and comply with the applicable processes, policies and/or procedures of Dig Alert, prior to any underground installation. Any underground facilities installed or maintained by Licensee on the Property must have a minimum cover of three feet from the top of the facility and be capable of withstanding a gross load of forty (40) tons on a three-axle vehicle. Licensee will compact any earth excavated to a compaction of ninety percent (90%). Licensee will relocate its facilities at its own expense so as not to interfere with Licensor's proposed facilities.

21. Utilities: Licensee will pay all charges and assessments for, or in connection with, water, electric current or other utilities which may be furnished to or used on the Property.

22. Taxes, Assessments and Liens: Licensee will pay all taxes and assessments which may be levied upon any crops, personal property, and improvements, including but not limited to, buildings, structures, and fixtures on the Property. Licensee will keep the Property free from all liens, including but not limited to, mechanics liens and encumbrances by use or occupancy by Licensee, or any person claiming under Licensee. If Licensee fails to pay the above-mentioned taxes, assessments or liens when due, Licensor may pay the same and charge the amount to the Licensee. All accounts not paid within thirty (30) days of the agreed upon due date will be charged a "late fee" on all amounts outstanding up to the maximum rate allowed by law.

23. Expense: Licensee will perform and pay all obligations of Licensee under this Agreement. All matters or things required by Licensee will be performed and paid for at the sole cost and expense of Licensee, without obligation by Licensor to make payment or incur cost or expense for any such matters or things.

24. Assignments: This Agreement is personal to Licensee, and Licensee will not assign, transfer or sell this Agreement or any privilege hereunder in whole or in part, and any attempt to do so will be void and confer no right on any third party.

25. Compliance with Law: Licensee will comply with all applicable federal, state, county and local laws, all covenants, conditions and restrictions of record and all applicable ordinances, zoning restrictions, rules, regulations, orders and any requirements of any duly constituted public authorities now or hereafter in any manner affecting the Property or the streets and ways adjacent thereto. Licensee will obtain all permits and other governmental approvals required in connection with Licensee's activities hereunder. Licensee shall hold harmless, defend and indemnify Licensor, its officers, agents and employees, and its successors and assigns, from and against all claims, loss, damage, actions, causes of actions, expense and/or liability arising from or resulting from any violation of this provision.

26. Governing Law: The existence, validity, construction, operation and effect of this Agreement and all of its terms and provisions will be determined in accordance with the laws of the State of California.

27. Indemnification: Licensee shall hold harmless, defend and indemnify Licensor, its officers, agents and employees, and its successors and assigns, from and against all claims, loss, damage, actions, causes of actions, expense and/or liability arising from or growing out of loss or

Initial (____)/(____/____)
Licensor/Licensee

damage to property, including that of Licensor, or injury to or death of persons, including employees of Licensor resulting in any manner whatsoever, directly or indirectly, by reason of this Agreement or the use or occupancy of the Property by Licensee or any person claiming under Licensee.

28. Termination: Licensor or Licensee may terminate this Agreement, at any time, for any reason, upon thirty (30) days notice in writing. Additionally, Licensor may immediately terminate this Agreement pursuant to Article 30. Termination does not release Licensee from any liability or obligation (indemnity or otherwise) which Licensee may have incurred. Upon termination, Licensor may immediately recover from Licensee all amounts due and owing hereunder, plus interest at the maximum rate permitted by law on such amounts until paid, as well as any other amount necessary to compensate Licensor for all the detriment proximately caused by Licensee's failure to perform its obligations under this Agreement. Licensee's continued presence after termination shall be deemed a trespass. In the event of a termination for any reason other than non-payment of the License fee, Licensor shall refund any previously collected/pre-paid License fees covering the unused portion of the remaining term, to the extent such fees exceed any offset claimed by Licensor under the Agreement

29. Events of Default: In addition to material defaults otherwise described herein, the occurrence of any of the following shall constitute a material default and breach of this Agreement by Licensee:

- (a) Any failure by Licensee to pay the consideration due under Article 3, or to make any other payment required to be made by Licensee when due.
- (b) The abandonment or vacating of the Property by Licensee.
- (c) Any attempted assignment or subletting of this Agreement by Licensee in violation of Article 24.
- (d) The violation by Licensee of any resolution, ordinance, statute, code, regulation or other rule of any governmental agency for Licensee's activities under this Agreement.
- (b) Any attempt to exclude Licensor from the licensed premises.
- (f) The making by Licensee of any general assignment for the benefit of creditors; the appointment of a receiver to take possession of substantially all of Licensee's assets located on the Property or of Licensee's privileges hereunder where possession is not restored to Licensee within five (5) days; the attachment, execution or other judicial seizure of substantially all of Licensee's assets located on the Property or of Licensee's privileges hereunder, where such seizure is not discharged within five (5) days.
- (g) Any case, proceeding or other action brought against Licensee seeking any of the relief mentioned in "clause f" of this Article which has not been stayed or dismissed within thirty (30) days after the commencement thereof.
- (h) Any claim by Licensee that it has a possessory interest and/or irrevocable license in the Property.
- (i) With respect to items not otherwise listed in Article 29.a-h, the failure by Licensee to observe and perform any other provision of this Agreement to be observed or performed

Initial (____)/(____/____)
Licensor/Licensee

by Licensee. Licensor shall provide written notice of such failure and Licensee shall be considered in material default where such failure continues for a total of ten (10) or more consecutive days from the date of the notice. Further, with respect to items not otherwise listed in Article 29.a-h, Licensee shall be considered in material default should Licensee fail to observe or perform any other provision of this Agreement for more than fifteen (15) days during the entire Term of the Agreement in the aggregate, after Licensor provides an initial written notice of such failure. After providing initial notice under this provision, Licensor will not be required to provide any subsequent notice of breach of this Agreement.

30. Remedies: Notwithstanding the notice requirement in Article 28, in the event of any material default by Licensee, then in addition to any other remedies available to Licensor at law or in equity, Licensor shall have the option to immediately terminate this Agreement and all rights of Licensee hereunder by giving written notice of such immediate termination to Licensee.

31. Licensee’s Personal Property Upon Termination or Expiration: In the event that this Agreement is terminated, whether termination is effected pursuant to Article 28 and/or 30, or in the event this Agreement expires pursuant to Article 2, Licensee shall, at Licensee’s sole cost and expense and prior to the earlier of the effective termination date or expiration date, remove all weeds, debris, and waste from the Property and peaceably quit, surrender and restore the licensed Property to the condition it was in prior to the Licensee’s use of the Property, in a manner satisfactory to Licensor.

If Licensee fails or refuses to remove any of Licensee’s personal property, building(s), fixture(s) or structure(s) from the Property prior to the earlier of the termination date or expiration date, said personal property, building(s), fixture(s) or structure(s) shall be deemed abandoned by the Licensee, and the Licensor shall have the right, but not the obligation, to remove, destroy, sell or otherwise dispose of them with no further notice to Licensee. Licensor shall not be required to seek and/or obtain judicial relief (including, but not limited to, the filing of an unlawful detainer action), nor shall Licensor be responsible for the value of Licensee’s personal property.

Licensor shall have the right to charge and recover from Licensee all costs and expenses incurred by Licensor related to (i) the removal, disposal or sale of Licensee’s personal property, building(s), fixture(s) or structure(s), (ii) the removal of any waste, weeds, or debris on the Property, (iii) environmental studies and environmental remediation and/or cleanup attributable to Licensee’s use of the Property, and (iv) the restoration of the Property to the condition it was in prior to Licensor’s initial use of the Property. Licensee agrees to pay such expenses to Licensor upon demand.

32. Limitation of Liability:

IN ORDER FOR LICENSEE TO OBTAIN THE BENEFIT OF THE FEE IDENTIFIED IN ARTICLE 3, WHICH INCLUDES A LESSER ALLOWANCE FOR RISK FUNDING FOR LICENSOR, LICENSEE AGREES TO LIMIT LICENSOR’S LIABILITY PURSUANT TO THIS AGREEMENT. AS SUCH, IF LICENSEE IS ENTITLED TO ANY RELIEF FOR LICENSOR’S NEGLIGENCE, INCLUDING GROSS NEGLIGENCE, FOR DAMAGE OR DESTRUCTION OF LICENSEE’S PERSONAL PROPERTY, BUILDING(S), STRUCTURE(S) OR FIXTURE(S) AFTER THE TERMINATION OR EXPIRATION OF THIS AGREEMENT, THE TOTAL LIABILITY OF LICENSOR SHALL NOT EXCEED THE TOTAL FEES ACTUALLY PAID BY LICENSEE TO LICENSOR DURING THE TERM OF THIS AGREEMENT.

Initial (____)/(____/____)
Licensor/Licensee

FURTHER, IN NO EVENT SHALL LICENSOR BE LIABLE UNDER ANY CIRCUMSTANCES FOR INJURY OR DAMAGE TO LICENSEE’S BUSINESS, IF ANY, INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS, LOSS OF RENTS OR OTHER EVENTS, LOSS OF BUSINESS OPPORTUNITY, LOSS OF GOODWILL OR LOSS OF USE, IN EACH CASE, HOWEVER OCCURRING, RELATED TO THIS AGREEMENT.

33. Non-Possessory Interest: Licensor retains full possession of the Property and Licensee will not acquire any possessory interest, whether temporary, permanent, or otherwise by reason of this Agreement, or by the exercise of the permission given herein. Licensee will make no claim to any such interest and Licensee will not claim that it has or ever had an irrevocable license in the Property.

34. Waiver: Licensor shall not be deemed to waive any provision of this Agreement orally or by conduct. Any waiver by Licensor of any provision of this Agreement must be in a writing signed by Licensor. No waiver by Licensor of any provision shall be deemed a waiver of any other provision or of any subsequent breach by Licensee of the same or any other provision. Licensor's consent to or approval of any act shall not be deemed to render unnecessary the obtaining of Licensor's consent to or approval of any subsequent act by Licensee. Licensor’s acceptance of payment after providing notice of termination to Licensee shall not constitute a waiver of Licensor’s termination of the Agreement.

35. Authority: This Agreement is executed subject to General Order No. 69-C of the Public Utilities Commission of the State of California dated and effective July 10, 1985, incorporated by this reference. As set forth in General Order 69-C, this License is made conditional upon the right of the Licensor either on order of the Public Utilities Commission or on Grantor’s own motion to resume the use of that property (including, but not limited to the removal of any obstructions) whenever, in the interest of Licensor’s service to its patrons or consumers, it shall appear necessary or desirable to do so. Licensee agrees to comply with all federal, state and local laws and regulations. This Agreement should not be construed as a subordination of Licensor’s rights, title and interest in and to its fee ownership, nor should this Agreement be construed as a waiver of any of the provisions contained in said License or a waiver of any costs of relocation of affected Licensor facilities.

36. Electric and Magnetic Fields (“EMF”): There are numerous sources of power frequency electric and magnetic field (“EMF”), including household or building wiring, electrical appliances and electric power transmission and distribution facilities. There have been numerous scientific studies about the potential health effects of EMF. Interest in a potential link between long-term exposures to EMF and certain diseases is based on this scientific research and public concerns.

While some 40 years of research have not established EMF as a health hazard, some health authorities have identified magnetic field exposures as a possible human carcinogen. Many of the questions about diseases have been successfully resolved due to an aggressive international research program. However, potentially important public health questions remain about whether there is a link between EMF exposures in homes or work and some diseases including childhood leukemia and a variety of other adult diseases (e.g. adult cancers and miscarriages). While scientific research is continuing on a wide range of questions relating to exposures at both work and in our communities, a quick resolution of the remaining scientific uncertainties is not expected.

Since Licensee plans to license or otherwise enter Licensor property that is in close proximity to Licensor electric facilities, Licensor wants to share with Licensee and those who may enter the property under this agreement, the information available about EMF. Accordingly, Licensor has attached to this document a brochure that explains some basic facts about EMF and that describes Licensor policy on

Initial (____)/(____/____)
Licensor/Licensee

EMF. Licensor also encourages Licensee to obtain other information as needed to assist in understanding the EMF regarding the planned use of this property.

37. Induced Voltages: Licensee hereby acknowledges that any structures (including, but not limited to, buildings, fences, light poles) that exist or may be constructed on the Property licensed herein, (hereinafter, the "Structures") in close proximity to one or more high voltage (66 kilovolt or above) electric transmission lines and/or substation facilities may be susceptible to induced voltages, static voltages and/or related electric fault conditions (hereinafter collectively referred to as "Induced Voltages") unless appropriate grounding or other mitigation measures are incorporated into the Structures. If not properly mitigated, Induced Voltages can cause a variety of safety and/or nuisance conditions including, but not limited to, electric shocks or other injuries to individuals contacting the Structures or other utilities connected to the Structures (including, but not limited to, natural gas lines, water lines or cable television lines), or interference with or damage to sensitive electronic equipment in or around the Structures. Measures to mitigate Induced Voltages, if required, will vary from case to case because of factors such as electric facility configuration and voltage, other utilities involved, or sensitivity of electronic equipment. Licensee will be responsible to determine what Induced Voltages mitigation measures should be undertaken regarding the Structures and to implement such mitigation measures at its sole cost and expense.

Licensee agrees for itself and for its contractors, agents, licensees, invitees, and employees, to save harmless and indemnify Licensor, its parent, subsidiaries and affiliated entities and their respective officers and employees against all claims, loss, damage, actions, causes of action, expenses and/or liability arising from or growing out of loss or damage to property, including Licensor's own personal property, or injury to or death of persons, including employees of Licensor caused by or resulting from or connected to Induced Voltages on or related to the Structures.

38. Notices: All notices required to be given by either party will be made in writing and deposited in the United States mail, first class, postage prepaid, addressed as follows:

To Licensor: Southern California Edison Company
Vegetation & Land Management
Land Management – Metro Region
2 Innovation Way
Pomona, CA 91768

To Licensee: Intermodal Container Transfer Facility c/o Port Of Long Beach
P.O. Box 570
Long Beach, CA 90801

Business Telephone No. (562) 283-7091

Notice will be deemed effective on the third calendar day after mailing. A party will immediately notify the other party in writing of any address change.

39. Recording: Licensee will not record this Agreement.

Initial (____)/(____/____)
Licensor/Licensee

40. Complete Agreement: Licensor and Licensee acknowledge that the foregoing provisions and any appendix, addenda and exhibits attached hereto constitute the entire Agreement between the parties. This Agreement may not be modified, amended, contradicted, supplemented or altered in any way by any previous written or oral agreements or any subsequent oral agreements or unsigned written agreements. This Agreement may be modified or amended only by way of a writing executed by both parties.

41. Signature Authority: Each of the persons executing this Agreement warrants and represents that he or she has the full and complete authority to enter into this Agreement on behalf of the Party for which he or she is signing, and to bind said party to the agreements, covenants and terms contained herein.

42. Survival: Any provision of this Agreement that imposes an obligation after termination or expiration of this Agreement shall survive the termination or expiration of this Agreement.

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Initial (____)/(____/____)
Licensor/Licensee

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in duplicate.

LICENSOR:

SOUTHERN CALIFORNIA EDISON COMPANY

By _____

AARON BROWN
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Date

LICENSEE:

INTERMODAL CONTAINER TRANSFER FACILITY
C/O PORT OF LONG BEACH

By _____

RICHARD CAMERON, Executive Director

Date

By _____

ELENA FLORES, Board Secretary

Date

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Licensor/Licensee

APPENDIX

Guidelines for Standard Licensee Improvements

The following criteria are provided to aid in developing a conceptual plot plan to be submitted to Southern California Edison Company herein after referred to as “Licensor” for consideration and approval prior to the start of any construction on “Licensor” property.

Plans should be developed indicating the size and location of all planned improvements. The plan should specify the dimensions of all planned improvements and the distance of all planned improvements from property lines and all adjacent “Licensor” towers, poles, guy wires or other “Licensor” facilities.

The plan must show the locations of all “Licensor” towers and poles, 16-foot wide access roads, main water lines and water shut-off valves, electrical service lines and parking areas. All plans must indicate adjacent streets and include a “north arrow” and the Licensee’s name.

SHADE STRUCTURES

(Definition: A non-flammable frame covered on the top with a material designed to provide shade to aid in growing plants)

1. Shade structures must maintain minimum spacing of 50 feet between shade structure locations, should be placed perpendicular to Licensor’s overhead electrical conductors (wires) unless otherwise approved in writing by Licensor, and should not exceed maximum dimensions of:
 - a. 100 feet in length
 - b. 50 feet in width
 - c. 15 feet in height
2. Shade structures will not be permitted within the following areas reserved for Licensor’s access:
 - a. Within 2 feet from edge of 16-foot wide access roads
 - b. 50-foot radius around suspension tower legs, H-Frames and poles
 - c. 100-foot radius around dead-end tower legs, H-Frames and poles
 - d. 25-foot radius around anchors/guy wires, poles and wood poles
3. Shade structures must utilize the following design:
 - a. Temporary/slip joint construction only
 - b. Non-flammable frame only
 - c. Adequately grounded by a licensed electrical engineer
 - d. Shade covering must be non-flammable and manufactured with non-hydrocarbon materials.

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Licensor/Licensee

SHADEHOUSES/HOTHOUSES

*(Definition: A simple, non-flammable, enclosed structure designed to control temperature **without** the benefit of heating and/or air conditioning units to aid in propagating and/or growing plants)*

1. Shadehouses/hothouses must maintain minimum spacing of 50 feet between shadehouse/hothouse locations, should be placed in perpendicular to Licensor’s overhead electrical conductors (wires) unless otherwise approved in writing by Licensor, and should not exceed maximum dimensions of:
 - a. 100 feet in length
 - b. 50 feet in width
 - c. 15 feet in height
2. Shadehouses/hothouses will not be permitted within the following areas reserved for Licensor’s access:
 - a. Within 2 feet from edge of 16-foot wide access roads
 - b. 50-foot radius around suspension tower legs, H-Frames and poles
 - c. 100-foot radius around dead-end tower legs, H-Frames and poles
 - d. 25-foot radius around anchors/guy wires, poles and wood poles
3. Shadehouses/hothouses must utilize the following design:
 - a. Temporary/slip joint construction only
 - b. Non-flammable frame only
 - c. Adequately grounded by a licensed electrical engineer
 - d. Covering must be non-flammable and manufactured with non-hydrocarbon materials

GREENHOUSES

(Definition: An enclosed structure designed to control temperature and/or humidity by the use of heating and/or air conditioning units to aid in propagating and/or growing plants)

Greenhouses will be considered on a case-by-case basis.

IRRIGATION SYSTEMS / WELLS

1. Maximum diameter of pipe: 3 inches
2. All pipe must be plastic Schedule 40 or better
3. No irrigation system will be permitted within the following areas reserved for Licensor’s access:
 - a. Within 2 feet from edge of 16-foot wide access roads
 - b. 50 -foot radius around suspension tower legs, H-Frames and poles

Initial (____)/(____/____)
Licensor/Licensee

- c. 100-foot radius around dead-end tower legs, H-Frames and poles
- 4. Sprinkler and drip irrigation controllers must be located at the edge of the right of way
- 5. Suitable identification markers will be required on main controllers and valves
- 6. Locations of main shut off valve will be provided and shown on a plot plan
- 7. Underground facilities must have a minimum cover of three feet
- 8. Earth disturbed must be compacted to ninety percent (90%)

LANDSCAPING

- 1. No trees will be permitted under the overhead electrical conductors or within 20 feet of the “drip line” of the conductors
- 2. Trees must have slow to moderate growth, and must be of a variety that grows to a maximum height of only 40 feet and must be maintained by the Licensee at a height not to exceed 15 feet
- 3. Placement of large rocks (boulders) must be approved in writing by Licensor
- 4. Any mounds or change of grade must be approved in writing by Licensor
- 5. No cactus or thorny shrubs will be permitted
- 6. Retaining walls, planters, etc. may be considered on a case by case basis and must be approved in writing by Licensor

TRAILERS *(Definition: Removable / portable office modules are not permitted without Licensor’s prior permission. Trailers must meet the following criteria to be considered:* Trailers must meet the following criteria:

- a. Must have axles and wheel and be able to be moved
- b. Maximum length: 40 feet
- c. Maximum height: 15 feet
- d. Maximum width: 12 feet
- 2. No trailers will be permitted within the following areas reserved for Licensor’s access:
 - a. Within 2 feet from edge of 16-foot wide access roads
 - b. 50-foot radius around suspension tower legs, H-Frames and poles
 - c. 100-foot radius around dead-end tower legs, H-Frames and poles
 - d. 25-foot radius around anchors/guy wires, poles and wood poles
 - e. Under or within 10 feet of the conductor “drip lines”

Initial (____)/(____/____)
Licensor/Licensee

- 3. Sewer or gas lines to trailers must be approved in writing by Licensor
- 4. Location of all electrical and telephone lines must be approved in writing by Licensor
- 5. Electrical lines must be installed by a licensed -general contractor.
- 6. Trailers shall not be used for residential purposes
- 7. Toxic or flammable materials will not be permitted in trailers
- 8. Adequately grounded by a licensed -general contractor

PARKING AREAS

Parking areas should not be designed under the overhead electrical conductors or within 10 feet of the “drip lines” without Licensor’s prior written approval. Parking spaces to be identified under the approved site plan. “No Parking” striping may be required in areas where additional clearance is required.

MATERIAL STORAGE

- 1. If an emergency occurs, Licensee must immediately relocate all materials specified by Licensor to provide Licensor clear access to its facilities.
- 2. Licensee must provide Licensor with a list of material stored on the right of way
- 3. No toxic or flammable materials will be permitted
- 4. No materials shall be stored within the following areas reserved for Licensor’s access:
 - a. Within 2 feet from edge of 16-foot wide access roads
 - b. 50 - foot radius around suspension tower legs, H-Frames and poles
 - c. 100 - foot radius around dead-end tower legs, H-Frames and poles
 - d. 25 feet from anchors/guy wires, poles and wood poles
- 5. Storage of materials not to exceed a maximum height of 15 feet
- 6. No storage of gasoline, diesel or any other type of fuel will be permitted
- 7. Any fencing around the storage areas must have Licensor’s prior written approval.

Initial (____)/(____/____)
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