APPENDIX C

LABOR PEACE/CARD CHECK RULE

The Airport Commission, consistent with the findings stated in attached Resolution No. 00-0049 that it is essential for the protection of the Airport Commission’s proprietary and financial interests, adopt this Rule that Employers/Contractors and Labor Organizations agree to enter into and abide by Labor Peace/Card Check Agreements through recognition in the circumstances specified below.

I. DEFINITIONS
Whenever used in Rule 12, the following terms shall have the meanings set forth below.

(A) "Labor Peace/Card Check Agreement" shall mean a written agreement within the meaning of the Labor Management Relations Act, 29 U.S.C. § 185(a) (or a written agreement that would qualify as such an agreement but for the fact that the Employer does not meet that statute’s definition of an Employer), between an Employer and a Labor Organization providing a procedure for determining employee preference on the subject of whether to be represented by a Labor Organization for collective bargaining, and if so, by which Labor Organization to be represented, which provides, at a minimum, the following:

(1) Determining employee preference regarding Labor Organization representation shall be by a card check procedure conducted by a neutral third party in lieu of a formal election;

(2) All disputes over interpretation or application of the parties’ Labor Peace/Card Check Agreement, and over issues regarding how to carry out the card check process or specific card check procedures shall be submitted to expedited binding arbitration. For purposes of this Labor Peace/Card Check Agreement, absent other agreement between the parties, the proceedings shall be conducted in accordance with the American Arbitration Association Labor Arbitration Rules including its Expedited Labor Arbitration procedures;

(3) Forbearance by any Labor Organization from economic action including strikes, picketing, boycotts or other such interference with the business of the Employer/Contractor at the work site of an organizing drive covered by this Rule in relation to an organizing campaign only (not as to the terms of a collective bargaining agreement), so long as the Employer/Contractor complies with the terms of the Labor Peace/Card Check Agreement.

(B) "Covered Contract" means a lease, sublease, or permit of Airport property at the Airport or any property owned by the Airport. Covered Contract also means a contract, subcontract, license, sublicense, operating permit, or similar agreement pursuant to which a Contractor is to provide services to the Airport or to a Contractor or Subcontractor which services are integral to the operations of the Airport or to sell goods or services in public areas of the Airport, including but not limited to, janitorial and maintenance, security, baggage and passenger screening, wheelchair assistance, baggage handling, parking lot services, shuttle vans, rental cars, ticketing agents, gate attendants, aircraft maintenance workers, ramp service workers, electricians, plumbers, airline sales personnel, baggage claim services, cart driving services, refueling personnel and clerical services.

(C) "Contractor" means any person or business entity that enters into a Covered Contract, as defined herein with the Airport Commission.
II. LABOR PEACE/CARD CHECK DUTIES

(A) Employer/Contractor Duties

(1) An Employer/Contractor shall enter into a Labor Peace/Card Check Agreement, as defined in this Rule, with any Labor Organization which requests such an agreement and which has registered with the Airport Director. The Employer/Contractor shall enter into the Labor Peace/Card Check Agreement not later than thirty (30) days from the request. If an Employer/Contractor enters into such an agreement with a Labor Organization, it must offer that same agreement to any other Labor Organization seeking to represent the Employer/Contractor’s employees. Any Labor Organization that was not a party to the initial Labor Peace/Card Check Agreement may, at its discretion, reject the terms negotiated by the first Labor Organization, and negotiate for a different Labor Peace/Card Check Agreement. In the event that a Labor Organization and the Employer/Contractor are unable to negotiate an agreement within the 30-day period, the parties shall then be bound by the Model Labor Peace/Card Check Agreement referred to in Part III of this Rule.

(2) Not less than 30 days prior to the modification or extension of any Covered Contract, the Employer/Contractor shall provide notice, by mail to any Labor Organization or federation of labor organizations which have registered with the Director, that the Employer/Contractor is seeking to modify or extend such Covered Contract.

(3) Upon issuing any request for proposals, invitations to bid, or similar notice, or in any event, not less than 30 days prior to entering into any Subcontract, an Employer/Contractor shall provide notice, by mail, to any Labor Organization or federation of labor organizations which has registered with the Airport Director, that the Employer/Contractor is seeking to enter into such Subcontract.

(4) The Employer/Contractor shall include in any subcontract with a Subcontractor performing services pursuant to any Covered Contract, a provision requiring the Subcontractor to comply with the requirements of this Rule.
(5) Notwithstanding the requirements provided in (1) - (5), any Employer/Contractor who has in good faith fully complied with those requirements will be excused from further compliance as to a Labor Organization which has been found by an arbitrator to have violated the forbearance provisions in the Labor Peace/Card Check Agreement, until and unless such finding has been vacated by any reviewing court.

(B) Airport Director Duties

The Airport Director shall:

(1) Include in any Covered Contract a provision requiring any Employer/Contractor to abide by the requirements imposed under Section 12.3(A) above as a condition of entering into, modifying or intending any Covered Contract.

(2) Include the description or reference to this Rule in requests for proposals or invitations to bid or similar documents regarding Covered Contracts. All will include a summary description of and reference to the requirements of this Rule. Failure to include the description of reference to this Rule in any such document shall not exempt any Employer/Contractor otherwise subject to the requirements of this Rule.

(3) Upon publication of any request for proposal, invitation to bid, or similar document distributed in anticipation of entering into a Covered Contract, provide notice by mail to any Labor Organization or federation of labor organizations, which has registered with the Director that the Director is seeking to enter into such Covered Contract.

(4) Not enter into or recommend to the Commission any Covered Contract with an Employer/Contractor without an express finding that the Employer/Contractor has agreed to comply with the provisions of this Rule.

(5) Grant exemptions from this Rule as set forth in Section 12.3(D).

(C) Labor Organization’s Duties

(1) Any Labor Organization seeking to invoke the provisions of this Rule, and to receive notifications as provided in this Rule, must register with the Airport Director, on a form designed by the Airport Director for that purpose, or by sending a letter signed by an agent of the Labor Organization, indicating which types of Covered Contracts the Labor Organization would like notification of, and certifying that the Labor Organization will comply with the terms of this Rule relative to such designated Covered Contract.

(2) A federation of labor organizations wishing to receive notification as provided in this Rule shall register with the Airport Director, on a form designed by the Airport Director for that purpose, or by sending a letter to the Airport Director signed by an agent of the federation.

(3) Any Labor Organization seeking to invoke the provisions of this Rule shall agree not to undertake economic action including strikes, picketing, boycotts or other such interference with the business of the Employer/Contractor at the work site of an organizing drive covered by this Rule, and in relation to an organizing campaign only (not to the terms of a collective bargaining agreement), so long as
the Employer/Contractor complies with the terms of the Labor Peace/Card Check Agreement.

(D) **Exemptions**

The provisions of the Labor Peace/Card Check Rule shall not apply to any of the following:

(1) A bargaining unit of any Employer/Contractor, which has already recognized a Labor Organization for that bargaining unit;

(2) New construction or any work covered by an Airport Project Stabilization Agreement;

(3) An Employer/Contractor who is obligated to enter into a card check agreement with a Labor Organization by San Francisco Administrative Code Chapter 23, Article VII, "Labor Representation Procedures in Hotel and Restaurant Development," and/or Airport Commission Policy No. 99-0198, as such procedures may be modified from time to time;

(4) A Labor Organization that does not register with the Airport Director nor a Labor Organization which does not request a card check procedure;

(5) An Employer/Contractor's operations at the Airport which are subject to the Railway Labor Act either by a final decision by a court or agency of competent jurisdiction, or by mutual agreement between the Employer/Contractor and a Labor Organization which is the exclusive bargaining representative of its employees. In such cases, the Labor Peace/Card Check Agreement shall be voluntary;

(6) A Covered Contract to provide or sell goods, services, materials or equipment where the Employer/Contractor does not operate on a regular basis with a defined complement of employees at the Airport;

(7) An agreement between the Airport and a public agency; or

(8) A Covered Contract where the Airport Director determines that the risk to the Airport's financial or other nonregulatory interest resulting from labor/management conflict is so minimal or speculative so as not to warrant concern for the Airport's proprietary, investment or other nonregulatory interest.

### III. MODEL LABOR PEACE/CARD CHECK AGREEMENT

To facilitate the requirements imposed by this Rule, the Commission hereby adopts a Model Labor Peace/Card Check Agreement appended to this Rule that includes the mandatory terms and which provides protection against labor/management conflict arising out of an organizing drive, and makes such Agreement available to parties required to enter into such agreement. The Airport Director may also prepare guidelines establishing standards and procedures related to this Rule. Notwithstanding this provision regarding the Model Labor Peace/Card Check Agreement, or related guidelines, this Rule shall be self-executing, and shall apply in the absence of or regardless of such model agreement or guidelines.

### IV. ENFORCEMENT

(A) The Airport Director shall investigate complaints that this Rule has been violated or that a Labor Peace/Card Check Agreement provision included in a Covered Contract has been
breached, and shall take any action necessary to enforce compliance, including but not limited to instituting a civil action.

(B) The Airport Director may, in addition to any other remedies available to the Airport, terminate the Covered Contract upon 30-days notice to the Employer/Contractor to cure its breach where the Employer/Contractor has failed (1) to give notice to Labor Organizations as required by this Rule, (2) to enter into a Labor Peace/ Card Check Agreement as required by this Rule, (3) to include in an Subcontract the provision requiring compliance with this Rule, or (4) has failed to abide by the terms of an arbitration award enforcing a Labor Peace/Card Check Agreement.

(C) Any challenge to the applicability of this Rule to a particular Employer/Contractor or Labor Organization shall be brought to the Commission only after first seeking an exemption from the Airport Director as provided for in this Rule. Any such challenge must be commenced with the Commission within 15 days after notification that such exemption has been denied by the Airport Director.

V. EFFECTIVE DATE

The provisions of this Rule shall apply to any Covered Contract awarded, modified, let, extended, or renegotiated after the effective date of this Rule. The provisions of this Rule shall also apply to Covered Contracts in effect at the time of this Rule's adoption to the extent such contract requires that the Employer/Contractor comply with the rules of this Commission. This Rule shall take effect immediately upon its adoption by the Commission.

VI. SEVERABILITY

If any part or provision of this Rule, or the application thereof to any person, business entity or circumstance, is held invalid by any court of competent jurisdiction, the remainder of this Rule, including the application of such part or provisions to other persons, business entities or circumstances, shall not be affected thereby and shall continue in full force and effect. To this end, the provisions of this Rule are severable.
MODEL CARD CHECK AGREEMENT

1. To accommodate a decision of the employees of ________________________ (hereby referred to as Employer) as to whether or not they wish to be represented by a Labor Organization seeking to represent them, in order to avoid costly labor disputes, and/or economic action that might arise, and to avoid jeopardizing the economic viability of the Airport and/or the Airport Commission's proprietary and economic interests in the Airport, Employer shall, upon request by any Labor Organization:

(i) provide such Labor Organization with a complete and accurate list of the names and complete addresses and phone numbers of the employees of Employer working in the jobs set forth in subsection (4) of this Section;

(ii) immediately comply with such Labor Organization's request under clause (i) even if the Facility that the employees will work in has not yet actually opened for business. The Employer shall not withhold names pending the actual opening for business of any or all of the Facility;

(iii) allow such Labor Organization to refer applicants for employment at the Facility consistent with any applicable Airport policies;

(iv) at such time as the Facility begins seeking, accepting, or interviewing applicants for employment, provide to such Labor Organization's members and representatives timely and reasonable access to the Facility for the purpose of providing employees with information about the Labor Organization.

2. Employer shall allow employees of the Facility to have reasonable access during nonworking time to the facilities and information made available via Section 1 of this Agreement.

3. Labor Organization agrees not to undertake economic action including strikes, picketing, boycotts or other interference with the business of Employer at the work site of an organizing drive covered by this Agreement, and in relation to an organizing campaign only (not to the terms of a collective bargaining agreement).

4. Employer agrees to voluntarily recognize for the purpose of exclusive collective bargaining, one or more Labor Organizations demonstrating that it or they represent a majority of the employees in the bargaining unit determined as set forth in Section 5 of this Agreement, in a "Card Check". Said Card Check shall be conducted by a Commissioner of the Federal Mediation and Conciliation Service, or if that Service is unable to so, by a Commissioner of the California State Conciliation Service.

5. Employer agrees that the card check shall take place in the bargaining unit requested by a Labor Organization provided it is an appropriate bargaining unit as that phrase has meaning under the national labor laws. Disputes over whether the requested unit is an appropriate unit and/or whether certain employees properly are included in a requested unit shall be submitted to final and binding arbitration as provided for in Section 5.

6. In the event a dispute arises over the interpretation or application of the terms of this card check procedure, or if the parties cannot agree on specific procedures to be used in the card check or any other substantive or procedural issue(s) pertaining to the card check, including without limitation, the eligibility standard for employees working less than a full-time schedule, the contents of authorization cards, potential disputes over the validity and/or authentication of authorization cards, etc., they shall submit such "interests" or "rights" to an arbitrator for final and binding resolution. The arbitrator shall have broad powers to determine the procedures and other substantive terms of the card check process for the parties as well as to resolve any and all
disputes over the interpretation and application of this Agreement. The arbitrator shall apply principles of federal labor laws developed by the National Labor Relations Board. Any such arbitration shall be concluded within 30 days of the demand for arbitration.

7. Employer shall abide by the results of the card check procedure, and hereby irrevocably waives the filing of a representation petition before the NLRB in lieu of the card check procedure. The Employer shall recognize any Labor Organization establishing that a majority of employees in the bargaining unit eligible to participate in the card check has designated the Labor Organization as the employees' exclusive collective bargaining agent for all purposes recognized by federal labor laws.

8. Employer further agrees that an interest demonstrated by employees of the Facility in joining a Labor Organization, membership in a Labor Organization and/or signing or circulating authorization cards or supporting a union organizing drive, (or not doing so) pursuant to this Agreement, shall not constitute grounds for discriminatory or disparate treatment or disciplinary action, and shall not adversely impact a potential employee's ability to be hired or promoted. The Employer and Labor Organization shall agree to submit to final and binding arbitration, as provided for in Section 5 above, grievances filed by employees or Labor Organizations seeking to organize employees concerning alleged violations of this section of the card check agreement and procedure.

9. Employer and Labor Organization further agree that this card check agreement and these mandated procedures shall be in effect and last for a term of not less than three (3) years from the date of execution, or from the date of opening, whichever is longer.

10. If the Employer has complied with the terms of this Agreement, and a Labor Organization, as part of a campaign to organize the employees of Employer, engages in economic action against Employer at sites covered by this Agreement, Employer shall be excused from further compliance with the card check procedures required in this Agreement with respect to the organizing campaign of that Labor Organization. "Economic action" means any concerted action initiated or conducted by a Labor Organization and/or employees acting in concert therewith to bring economic pressure to bear against Employer as part of a campaign to organize employees or prospective employees of Employer including such activities as striking, picketing, boycotting at the Airport.

11. This Agreement applies only to the procedures for determining employee preference regarding whether to be represented by a Labor Organization for purposes of collective bargaining and/or by which Labor Organization to be represented. This Agreement does not apply to the procedures governing the process of collective bargaining itself, once a Labor Organization has been recognized as the bargaining representative for employees of Employers subject to this Agreement.