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UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES DIVISION

In re)
AP-LONG BEACH AIRPORT LLC, a)
Delaware limited liability company,)
Debtor and Debtor-in-Possession.)

Case No. 2:14-bk-33372-VZ
Chapter 11 Case
**MOTION FOR CONFIRMATION OF THE
SECOND AMENDED PLAN OF
REORGANIZATION OF AP-LONG
BEACH AIRPORT LLC; MEMORANDUM
OF POINTS AND AUTHORITIES IN
SUPPORT THEREOF**
HEARING DATE:
Date: June 25, 2015
Time: 1:30 p.m.
Place: Courtroom 1368
255 East Temple Street
Los Angeles, CA 90012

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1 TO THE HONORABLE VINCENT P. ZURZOLO, UNITED STATES
2 BANKRUPTCY JUDGE, THE OFFICE OF THE UNITED STATES TRUSTEE, THE
3 TWENTY LARGEST UNSECURED CREDITORS, AND OTHER PARTIES-IN-
4 INTEREST:

5 AP-Long Beach Airport LLC, debtor and debtor-in-possession (the "Debtor"), hereby
6 submits this Motion (the "Motion") for an order confirming the *Second Amended Disclosure*
7 *Statement and Plan of Reorganization for AP-Long Beach Airport LLC* dated April 23, 2015
8 [Docket No. 193] (the "Plan") submitted by the Debtor and Donald G. Abbey (the "Plan
9 Proponents"). A hearing to consider confirmation of the Plan will be held on June 25, 2015, at
10 1:30 p.m. (the "Confirmation Hearing").

11 Accompanying this Motion are the following documents filed in support of confirmation
12 of the Plan:

13 1. *Declaration of Donald Abbey in Support of Confirmation of the Second Amended*
14 *Disclosure Statement and Plan of Reorganization for AP-Long Beach Airport LLC* (the "Abbey
15 Declaration"); and

16 2. *Declaration of David Stapleton in Support of Confirmation of the Second Amended*
17 *Disclosure Statement and Plan of Reorganization for AP-Long Beach Airport LLC* (the "Stapleton
18 Declaration"); and

19 3. *Declaration of Lori Gauthier Regarding Tabulation of Ballots Regarding the*
20 *Second Amended Disclosure Statement and Plan of Reorganization for AP-Long Beach Airport*
21 *LLC* (the "Ballot Analysis").

22 In support of confirmation of the Plan, the Debtor will also rely upon the other pleadings,
23 papers, and records on file with the Bankruptcy Court in the Debtor's case and such additional
24 evidence and arguments as may be properly presented to the Court at or before the Confirmation
25 Hearing.

26 Based on the foregoing, and for the reasons set forth herein, the Debtor respectfully
27 requests that the Court confirm the Plan pursuant to section 1129(a) of chapter 11 of title 11 of the
28

1 United States Code (the “Bankruptcy Code”).¹

2 I.

3 INTRODUCTION

4 The Bankruptcy Court should confirm the Plan pursuant to section 1129 of the Bankruptcy
5 Code. The Plan complies with every required section of the Bankruptcy Code, the Federal Rules
6 of Bankruptcy Procedure (the “Bankruptcy Rules”), and applicable non-bankruptcy laws relating
7 to confirmation thereof. The Plan results in payment in full of all allowed claims, with interest,
8 and Class 4 (Membership Interest of APII), the only voting class, has accepted the Plan.

9 Classes One, Two and Three are unimpaired and are conclusively presumed to have
10 accepted the Plan. Section 1124(1) of the Bankruptcy Code provides that a creditor is unimpaired
11 if the plan “leaves unaltered the legal, equitable, and contractual rights to which such claim or
12 interest entitles the holder of such claim or interest.” 11 U.S.C. § 1124(1). A holder of an
13 unsecured claim is considered unimpaired if a plan of reorganization provides for the payment in
14 full of the claim, plus post-petition interest. See, e.g., Solow v. PPI Enterprises (U.S.), Inc. (In re
15 PPI Enterprises (U.S.)), 324 F.3d 197, 207 (3rd Cir. 2003).

16 Holders of claims in Class One receive payment in full upon the Effective Date of the Plan,
17 with interest from the Petition Date through the date of payment at the Federal Judgment Rate.
18 See Plan, § IV. In addition, the Plan provides that U.S. Bank (Class Two) and LCS (Class Three)
19 shall retain their rights under the relevant agreements with the Debtor. Thus, Class One
20 (Unsecured Claims), Class Two (Claim of U.S. Bank), and the Class Three (Claim of LCS) are
21 unimpaired and are deemed to have accepted the Plan.

22 The only party that is impaired and therefore received a ballot is Abbey-Properties II LLC
23 (“APII”), which is the sole member of the Debtor and owns 100% of the interests in the Debtor.
24 The Plan provides that APII’s interests in the Debtor will be transferred to a newly created limited
25 liability company, LB Hangar 3205 LLC (“LB Hangar”). APII shall be the sole member of LB
26 Hangar and LB Hangar shall be the sole member of the Debtor. Therefore, although APII’s rights

27 _____
28 ¹ Unless otherwise indicated, all section references herein are to the Bankruptcy Code, as
codified in title 11 of the United States Code, 11 U.S.C. §§ 101, et seq., including all amendments thereto.

1 with respect to the Debtor have been modified, APII will remain the ultimate owner of 100% of
2 the Debtor. APII has submitted its ballot accepting the Plan.

3 Based on the foregoing, the Debtor respectfully requests the Bankruptcy Court confirm the
4 Plan.

5 II.

6 BACKGROUND

7 A. The Chapter 11 Case

8 1. The Debtor

9 The Debtor is a single asset real estate company that owns a 206,945-square-foot building
10 at Long Beach Airport located at 3205 Lakewood Boulevard, Long Beach, California (the "Long
11 Beach Property") that originally was an airplane hangar.

12 2. The Chapter 11 Case

13 The Debtor filed its voluntary petition for relief under chapter 11 of title 11 of the United
14 States Code on December 19, 2014 (the "Petition Date"). The Debtor continues to manage and
15 operate its business as a debtor-in-possession pursuant to Bankruptcy Code sections 1107 and
16 1108. No trustee, examiner, or committee has been appointed in this chapter 11 case.²

17 B. The Plan

18 On March 18, 2015, the Plan Proponents filed the *Disclosure Statement and Plan of*
19 *Reorganization for AP-Long Beach Airport LLC* [Docket No. 143].

20 On April 16, 2015, the Plan Proponents filed the *Supplement to Motion for Order*
21 *Approving Disclosure Statement; Declaration of Alan J. Friedman in Support Thereof* [Docket
22 No. 158], which attached as an exhibit the *First Amended Disclosure Statement and Plan of*
23 *Reorganization of AP-Long Beach Airport LLC*.

24
25
26 ² On August 15, 2014, a California state court appointed a receiver for the limited purpose
27 of collecting rents on behalf of U.S. Bank at the Long Beach Property (as his role was modified
28 from time to time, the "Receiver"). The Debtor has worked cooperatively with the Receiver since
his appointment to ensure that the value of the Long Beach Property is not impaired as a result of
his appointment.

1 On April 23, 2015, the Court held a hearing to consider the disclosure provisions of the
2 First Amended Plan and Disclosure Statement.

3 On April 23, 2015, the Plan Proponents filed the *Supplemental Declaration of Alan J.*
4 *Friedman to Motion for Order Approving Disclosure Statement with Second Amended Disclosure*
5 *Statement and Plan of Reorganization for AP-Long Beach Airport LLC and Redlined Pages*
6 *Attached Hereto* [Docket No. 165], which attached as an exhibit the *Second Amended Disclosure*
7 *Statement and Plan of Reorganization of AP-Long Beach Airport LLC* with the disclosure
8 provisions approved by the Court (the “Disclosure Statement”).

9 Concurrently herewith, the Plan Proponents have filed the solicitation version of the Plan,
10 which was served on all creditors, interest holders, and other parties in interest on April 29, 2015.

11 The Plan satisfies all of the requirements of section 1129 of the Bankruptcy Code. The
12 Plan was proposed in good faith and provides for the payment in full of all allowed administrative
13 claims, priority claims, secured claims and general unsecured claims. The Plan will produce a
14 greater recovery for the holders of claims than would be achieved in a Chapter 7 liquidation, and
15 the Plan is in the best interest of the Debtor’s estate and creditors.

16 This Motion presents a comprehensive analysis of the issues before this Court regarding
17 the Plan and demonstrates that the Plan complies with the applicable provisions of the Bankruptcy
18 Code and the Bankruptcy Rules, and provides the legal and evidentiary bases necessary for this
19 Court to confirm the Plan pursuant to section 1129. As set forth in this Motion, the Plan should be
20 confirmed because all Classes are either unimpaired or have accepted the Plan.

21 **C. The Results of Voting on the Plan**

22 On April 28, 2015, the Court entered its order approving the Disclosure Statement and
23 establishing Plan solicitation and voting procedures (the “Disclosure Statement Order”). Pursuant
24 to the Disclosure Statement Order, the Court: (i) fixed May 29, 2015 at 5:00 p.m. (PDT) as the
25 date and time by which all ballots to accept or reject the Plan must have been completed and
26 received, (ii) fixed June 4, 2015 at 5:00 p.m. (PDT) as the last day for creditors and other parties in
27 interest to file objections to confirmation of the Plan, (iii) fixed June 18, 2015 at 2:00 p.m. (PDT)

28

1 as the date and time of the hearing to consider confirmation of the Plan, and (iv) approved the
2 form and manner of notice with respect to the foregoing.

3 On May 22, 2015, the Debtor filed a Stipulation to (I) Continue Hearing on Confirmation
4 of the Plan of Reorganization for AP-Long Beach Airport LLC and (II) Modify Related Deadlines
5 (the “Stipulation”) [Docket No. 186]. On May 22, 2015, the Court entered its order approving the
6 Stipulation and modifying plan related deadlines (the “Stipulated Order”) [Docket No. 188]. By
7 the Stipulated Order, the Court (i) continued the hearing on confirmation of the Plan to June 25,
8 2015 at 1:30 p.m., (ii) extended the deadline by which the Debtor must file and serve its motion
9 and memorandum in support of confirmation of the Plan, and declarations in support thereto to
10 May 28, 2015, (iii) extended the deadline for filing and serving objections to confirmation of the
11 Plan to June 11, 2015 at 5:00 p.m. (PDT), and (iv) extended the deadline by which the Debtor
12 must file and serve its reply in support of confirmation of the Plan to June 18, 2015 at 5:00 p.m.
13 (PDT). As set forth in the declarations of mailing, the Debtor has fully complied with each of the
14 directives of the Disclosure Statement Order and Stipulated Order. See Docket Nos. 170 & 171
15 and 190.

<u>Class</u>	<u>Claimant</u>	<u>Status</u>	<u>Voting Right</u>
Class One	Unsecured Creditors	Unimpaired	Deemed to Accept
Class Two	Unsecured Claim of U.S. Bank	Unimpaired	Deemed to Accept
Class Three	Unsecured Claim of LCS Constructors	Unimpaired	Deemed to Accept
Class Four	Membership Interest of Abbey-Properties II LLC	Impaired	Entitled to Vote

25 The deadline for submitting ballots to accept or reject the Plan is May 29, 2015 at 5:00
26 p.m. (PDT). The only party entitled to vote is APII, the sole member of the Debtor.
27
28

1 APII has submitted its vote in favor of the Plan and, as such, the only impaired class
2 entitled to vote on the Plan has voted to accept the Plan.

3 **III.**

4 **THE PLAN COMPLIES WITH ALL APPLICABLE PROVISIONS OF**
5 **SECTION 1129(a) OF THE BANKRUPTCY CODE**

6 Under the Bankruptcy Code, a plan of reorganization shall be confirmed if all of the
7 applicable confirmation requirements set forth in section 1129 are satisfied. See Brady v. Andrew
8 (In re Commercial Western Fin. Corp.), 761 F.2d 1329, 1338 (9th Cir. 1985). The balance of this
9 Motion, along with the declarations submitted concurrently herewith, demonstrates that the Plan
10 satisfies each of the applicable requirements of section 1129.

11 **A. The Plan Complies with the Applicable Provisions of Title 11 (Section 1129(a)(1))**

12 Section 1129(a)(1) provides that a Court may confirm a plan only if all requirements of
13 section 1129 are met, including that “[t]he plan complies with the applicable provisions of this
14 title.” 11 U.S.C. § 1129(a)(1). Although the scope of section 1129(a)(1) is broad on its face, the
15 legislative history of section 1129(a)(1) suggests that this subsection relates primarily to those
16 provisions of the Bankruptcy Code concerning the form and content of a plan of reorganization
17 such as sections 1122 and 1123, which govern classification of claims and interests and the
18 contents of a plan. See S. Rep. No. 95-55, 95th Cong., 2d Sess. 126 (1978), reprinted in 1978
19 U.S.C.C.A.N. 5787, 5912; Kane v. Johns-Manville Corp., 843 F.2d 636, 648-49 (2nd Cir. 1988);
20 In re Texaco, 84 B.R. 893, 905 (Bankr. S.D.N.Y. 1988), appeal dismissed, 92 B.R. 38 (S.D.N.Y.
21 1988) (“In determining whether a plan complies with section 1129(a)(1), reference must be made
22 to Code §§ 1122 and 1123 with respect to classification of claims and the contents of a plan of
23 reorganization.”). As discussed below, the Plan satisfies the requirements of both section 1122
24 and section 1123.

25 1. The Plan Complies with the Classification Requirements of Section 1122

26 A court has broad discretion to approve classification schemes in a plan of reorganization.
27 See Steelcase v. Johnston (In re Johnston), 21 F.3d 323, 327 (9th Cir. 1994); State Street Bank and
28

1 Trust Co. v. Elmwood, Inc. (In re Elmwood, Inc.), 182 B.R. 845, 849 (D. Nev. 1995). Indeed, the
2 Bankruptcy Code's only restriction on the creation of classes is section 1122(a), which provides
3 that a plan may place a claim or interest in a particular class only if the claim or interest is
4 "substantially similar" to other claims or interests in the class. For the following reasons, the
5 Plan's classification of claims and interests complies with section 1122.

6 Here, the Plan designates three (3) classes of claims, based upon differences in the legal
7 nature and/or priority of such claims, and one (1) class of membership interests. The Plan's
8 classification scheme is proper because each class contains only claims or equity interests that are
9 substantially similar to each other.

10 a. *Priority Unsecured Claims*

11 The classification of priority claims, other than administrative claims, and priority tax
12 claims, separate from general unsecured claims, is justified because their legal rights against the
13 Debtor and the Debtor's property have statutory priority over general unsecured claims. See 11
14 U.S.C. § 507(a), 1129(a)(9).

15 b. *General Unsecured Claims*

16 The Plan contains three (3) classes of unsecured claims: Class One (Unsecured Claims),
17 Class Two (Unsecured Claim of U.S. Bank with respect to rights, if any, arising under the U.S.
18 Bank Agreement), and Class Three (Unsecured Claim of LCS with respect to rights arising under
19 the LCS Settlement Agreement). The holders of claims in Class One shall receive payment in full
20 in cash on the Effective Date with interest from the Petition Date to the date that the claim is paid
21 calculated at the Federal Judgment Rate. U.S. Bank (Class 2) and LCS (Class 3) receive no
22 payments under the Plan, but retain all of their rights under their respective agreements with the
23 Debtor.

24 c. *Interests*

25 The Plan, in compliance with section 1122, classifies the membership interests in the
26 Debtor separately from classes of holders of claims. The Plan contains one (1) class of equity
27 interests: Class 4 (Membership Interests in the Debtor).

28

1 2. The Plan Includes Provisions Consistent with Section 1123 of the Bankruptcy Code

2 Section 1123 sets forth the mandatory and permissive contents of a plan. As demonstrated
3 below, the Plan contains each of the mandatory provisions required by section 1123(a), and a
4 number of the provisions expressly permitted by section 1123(b).

5 a. *Designation of Classes of Claims and Interests (Section 1123(a)(1))*

6 Section 1123(a)(1) requires that a plan designate classes of claims other than claims of a
7 kind specified in section 507(a)(1) (administrative expense claims), section 507(a)(2) (claims
8 arising during a “gap” period in an involuntary case), or section 507(a)(8) (tax claims). See, e.g.,
9 In re Haardt, 65 B.R. 697, 700 (Bankr. E.D. Pa. 1986). Article IX of the Plan designates classes of
10 claims and equity interests in accordance with section 1123(a)(1). The Plan does not classify
11 claims of the type described in sections 507(a)(1), 507(a)(2) and 507(a)(8). Thus, the Plan
12 satisfies the requirements of section 1123(a)(1).

13 b. *Specification of Unimpaired Classes (Section 1123(a)(2))*

14 Section 1123(a)(2) requires that a plan “specify any class of claims or interests that is not
15 impaired under the plan.” 11 U.S.C. § 1129(a)(2); see also In re Smith, 123 B.R. 863, 865 (Bankr.
16 C.D. Cal. 1991). Under section 1124, a class of claims is impaired unless each claim in that class
17 is treated in either of the following ways: (1) the plan leaves unaltered the legal, equitable, and
18 contractual rights to which such claim is entitled; or (2) the plan cures any default, reinstates the
19 maturity, compensates the holder for damages, and does not otherwise alter the legal, equitable, or
20 contractual rights to which such claim entitles the holder. See 11 U.S.C. § 1124; In re PPI
21 Enterprises (U.S.), Inc., 324 F.3d at 206. A holder of an unsecured claim is considered
22 unimpaired if a plan of reorganization provides for the payment in full of the claim, plus post-
23 petition interest. Id.

24 Holders of claims in Class One receive payment in full upon the Effective Date of the Plan,
25 with interest from the Petition Date through the date of payment at the Federal Judgment Rate.
26 See Plan, § IV. In addition, the Plan provides that U.S. Bank (Class Two) and LCS (Class Three)
27 shall retain their rights under the relevant agreements with the Debtor. Thus, Class One
28

1 (Unsecured Claims), Class Two (Claim of U.S. Bank), and the Class Three (Claim of LCS) are
2 unimpaired and are deemed to have accepted the Plan.

3 c. *Specification of Treatment of Impaired Classes (Section 1123(a)(3))*

4 Section 1123(a)(3) requires that a plan “specify the treatment of any class of claims or
5 interests that is impaired under the plan.” 11 U.S.C. § 1123(a)(3). Class 4 (Membership Interest
6 of APII) is designated as impaired in Article IX of the Plan. Article IX specifies the treatment of
7 Class 4. Thus, the requirements of section 1123(a)(3) are satisfied.

8 d. *Provide Same Treatment for Each Claim or Interest Within a Class*
9 *(Section 1123(a)(4))*

10 Section 1123(a)(4) requires that the Plan “provide the same treatment for each claim or
11 interest of a particular class, unless the holder of a particular claim or interest agrees to a less
12 favorable treatment of such particular claim or interest.” 11 U.S.C. § 1123(a)(4). Section IX of
13 the Plan provides for the same treatment for each of the allowed claims and allowed equity
14 interests contained in each of the classes under the Plan in compliance with section 1123(a)(4).

15 e. *Adequate Means for Implementation of the Plan (Section 1123(a)(5))*

16 Section 1123(a)(5) requires that a plan “provide adequate means for the plan’s
17 implementation” and provides several non-exclusive means for such implementation. 11 U.S.C.
18 § 1123(a)(5); see also Florida Partners Corp. v. Southeast Co. (In re Southeast Co.), 868 F.2d 335
19 (9th Cir. 1988). On or before the Effective Date, among other actions, the following will occur to
20 implement the Plan:

- 21 • The DIP Financing shall convert to the Exit Financing (as each is defined in the
22 Plan).
- 23 • On the Effective Date, all allowed administrative claims (except professional fees,
24 which are subject to Court approval), priority claims, and general unsecured claims
25 shall be paid in full, with interest.

- 1 • From and after the Effective Date, in accordance with the terms of the Plan and
2 Confirmation Order, the Reorganized Debtor shall perform all obligations under all
3 executory contracts and unexpired leases assumed in accordance with the Plan.
- 4 • On the Effective Date, title to all assets, claims, causes of action, properties, and
5 business operations of the Debtor and of its estate shall revert to the Reorganized
6 Debtor, and thereafter, the Reorganized Debtor shall own and retain such assets
7 free and clear of all liens and claims, except as expressly provided in the Plan.

8 The Plan provides that APII's interests in the Debtor will be transferred to LB Hangar.
9 APII shall be the sole member of LB Hangar and LB Hangar shall be the sole member of the
10 Debtor. But for the insertion of LB Hangar into the ownership chain, all ownership and
11 management of the Debtor shall remain the same.

12 Based on the means for implementation of the Plan described above and elsewhere in the
13 Plan, the Plan adequately describes the means for its implementation in satisfaction of section
14 1123(a)(5).

15 f. *Charter of Reorganized Debtor Section 1123(a)(6)*

16 The Debtor is not a corporation so Section 1123(a)(6) of the Bankruptcy Code does not
17 apply.

18 g. *Selection of Officers and Directors Section 1123(a)(7)*

19 Section 1123(a)(7) requires that a plan "contain only provisions that are consistent with the
20 interests of creditors and equity security holders and with public policy with respect to the manner
21 of selection of any officer, director, or trustee under the plan and any successor to such officer,
22 director, or trustee." 11 U.S.C. § 1123(a)(7).

23 The Debtor is a limited liability company. The sole member of the Debtor is APII.
24 Following confirmation of the Plan, APII's interests in the Debtor will be transferred to LB
25 Hangar. APII shall be the sole member of LB Hangar and LB Hangar shall be the sole member of
26 the Debtor.

27 Based on the foregoing, the Plan meets the requirements of section 1123(a)(7).
28

1 3. The Plan Contains Permissive Provisions Consistent with Section 1123(b) of the
2 Bankruptcy Code

3 Section 1123(b) describes certain permissive plan provisions. The Plan contains a number
4 of these provisions including, for example, providing for the assumption of certain unexpired
5 leases and executory contracts, and containing exculpation, release and injunction provisions. As
6 set forth in greater detail below, the Debtor believes that these permissive provisions are consistent
7 with section 1123(b) of the Bankruptcy Code.

8 a. *Impairment/Nonimpairment (Section 1123(b)(1))*

9 Section 1123(b)(1) provides that a Plan may “impair or leave unimpaired any class of
10 claims, secured or unsecured, or of interests.” 11 U.S.C. § 1123(b)(1). As discussed more fully
11 above, the Plan impairs Class 4 (Membership Interest of APII), and leaves Classes One, Two and
12 Three unimpaired.

13 b. *Assumption/Rejection of Executory Contracts and Unexpired Leases*
14 *Section 1123(b)(2))*

15 Subject to section 365, section 1123(b)(2) permits a plan to provide for the assumption,
16 rejection, or assignment of any executory contract or unexpired lease of the debtor not previously
17 rejected. See 11 U.S.C. § 1123(b)(2); see also In re TS Indus., Inc., 117 B.R. 682, 685 (Bankr. D.
18 Utah 1990). Bankruptcy Rule 6006(a) provides that the assumption or rejection of an executory
19 contract or unexpired lease as a part of a plan is not governed by Bankruptcy Rule 9014. Fed. R.
20 Bankr. P. 6006. Thus, no separate motion, notice, or hearing is required.

21 Article XVI of the Plan provides for the assumption of certain of the Debtor’s executory
22 contracts and unexpired leases. Article XVI provides that all executory contracts and unexpired
23 leases of the Debtor set forth on Exhibit “4” to the Plan shall be assumed pursuant to the
24 provisions of section 365 and 1123. Such assumed executory contracts and unexpired leases shall,
25 as of the Effective Date, vest in the Reorganized Debtor. Article XVI further provides that any
26 and all unexpired leases and executory contracts that are not listed on Exhibit “4” to the Plan will
27 be rejected pursuant to the Plan and the Confirmation Order effective on the Effective Date.

28

1 The Debtor has analyzed all of its executory contracts and unexpired leases and has
2 determined, in its reasonable business judgment, that it is in the best interests of the Debtor to
3 assume the executory contracts and unexpired leases set forth on Exhibit "4" and to reject all
4 others. See Robertson v. Pierce (In re Chi-Feng Huang), 23 B.R. 798, 800-01 (B.A.P. 9th Cir.
5 1982) (discussing application of business judgment standard to decision to assume or reject
6 executory contracts and leases); Richmond Leasing Co. v. Capital Bank, N.A., 762 F.2d 1303,
7 1309 (5th Cir. 1985) (affirming bankruptcy court's authorization of assumption of lease). There
8 have been no objections to either the proposed assumption of the unexpired leases and executory
9 contracts or the proposed cure amounts set forth in Exhibit "4" to the Plan (as amended).³

10 Based on the foregoing, the Plan meets the requirements of section 1123(b)(2).

11 c. *Release, Exculpation, and Injunction Provisions Section 1123(b)(3)(A) and*
12 *Section 105)*

13 Section 1123(b)(3)(A) provides that a Plan may include the settlement or compromise of
14 any claim belonging to a debtor or its estate. 11 U.S.C. § 1123(b)(3)(A); 11 U.S.C § 105 .

15 Article XIX.E of the Plan contains customary exculpation provisions establishing liability
16 standards, and Article XIX.F of the Plan provides for an injunction implementing such
17 exculpation. The exculpation provisions are designed to prevent parties from circumventing the
18 Plan's discharge injunction by suing affiliates of the Debtor and other third parties for their
19 participation in reorganizing the Debtor and seeking to confirm the Plan. The exculpation
20 provisions of the Plan set forth in Article XIX.E are consistent with section 1125(e) and applicable
21 Ninth Circuit law and should be approved. See, e.g., In re W. Asbestos Co., 313 B.R. 832, 846-47
22 (Bankr. N.D. Cal. 2003).

23 Accordingly, the Debtor submits that the Plan's exculpation provisions are necessary and
24 appropriate under the circumstances and should be approved.

25
26
27 ³ The Debtor served all counterparties to the executory contracts and leases on Exhibit "4" on
28 April 29, 2015. The deadline for a counterparty to a contract or lease to object to the assumption of such
contract or lease or the cure amount proposed by the Debtor (as extended pursuant to the Stipulated Order)
is June 11, 2015 at 5:00 pm PDT.

1 In addition, Article XIX.I of the Plan provides for the Debtor's release of any and all
2 claims against the DIP Lender (as defined in the Plan) and its affiliates, agents, attorneys, officers,
3 directors, managers, and employees related to any act or omission taking place on or before the
4 Effective Date. The DIP Lender's contributions to this chapter 11 case are numerous and vital to
5 the success of the Debtor's reorganization, including refinancing the Debtor's prepetition credit
6 facility with U.S. Bank and funding the Exit Financing, which will allow the Debtor to fund
7 distributions under the Plan, emerge from chapter 11, and continue to operate its businesses.
8 Moreover, the Debtor does not believe it has any claims or causes of action against the DIP
9 Lender. Accordingly, the Debtor believes that releasing the DIP Lender is reasonable and justified
10 in the circumstances of this chapter 11 case.

11 d. *Other Appropriate Provisions (Section 1123(b)(6))*

12 Section 1123(b)(6) specifies that a plan may "include any other appropriate provision not
13 inconsistent with the applicable provisions" of title 11. 11 U.S.C. § 1123(b)(6). Most of the
14 provisions of the Plan fit within the mandatory and permissive categories of plan provisions
15 identified in section 1123, and discussed above. To the extent that the provisions of the Plan do
16 not fit within these categories, the Debtor believes that these permissive provisions are consistent
17 with section 1123(b) of the Bankruptcy Code.

18 **B. The Debtor Has Complied with the Applicable Provisions of Title 11 (Section**
19 **1129(a)(2))**

20 Section 1129(a)(2) requires that the proponent of the plan comply with the "applicable
21 provisions" of title 11. In this context, the "applicable provisions" of title 11 are section 1121,
22 dealing with who may file a plan, and section 1125, dealing with the solicitation of acceptances of
23 a plan. See In re Hoff, 54 B.R. 746, 750-51 (Bankr. D.N.D. 1985); accord In re Downtown Inv.
24 Club III, 89 B.R. 59 (B.A.P. 9th Cir. 1988).

25 Section 1121(a) permits a debtor to file a plan at any time in a voluntary or involuntary
26 case. 11 U.S.C. § 1121. The Debtor was, therefore, qualified under that section to file the Plan.

27
28

1 Section 1125(b) provides that a proponent may not solicit acceptances of its plan unless, at
2 or before the time of such solicitation, there is transmitted to the solicitee both a copy of the plan
3 and a court-approved disclosure statement. 11 U.S.C. § 1125(b); see also Duff v. U.S. Trustee (In
4 re California Fidelity, Inc.), 198 B.R. 567, 571 (B.A.P. 9th Cir. 1996). The Debtor has fully
5 complied with this requirement. In the Disclosure Statement Order, the Court approved the
6 Debtor's Disclosure Statement as containing adequate information as required by section 1125. In
7 accordance with the Disclosure Statement Order and Bankruptcy Rule 3017(d), the Debtor
8 transmitted solicitation packages to all creditors and shareholders. Declarations of service
9 regarding the distribution of the solicitation packages have been filed with the Court.
10 Accordingly, the Debtor has complied with the solicitation requirements of section 1125.

11 **C. The Plan is Proposed in Good Faith (Section 1129(a)(3))**

12 Section 1129(a)(3) requires that a plan must be proposed "in good faith and not by any
13 means forbidden by law." See Acequia, Inc. v. Clinton (In re Acequia, Inc.), 787 F.2d 1352, 1360
14 (9th Cir. 1986).

15 Although the term "good faith" is left undefined by the Bankruptcy Code, a plan is
16 proposed in good faith if it is designed to achieve a result consistent with the objectives and
17 purposes of the Bankruptcy Code and reflects a fundamental fairness in dealing with ones
18 creditors. See Stolrow v. Stolrow's, Inc. (In re Stolrow's, Inc.), 84 B.R. 167, 172 (B.A.P. 9th Cir.
19 1988) ("Good faith requires that a plan will achieve a result consistent with the objectives and
20 purposes of the Code."). As demonstrated below, the Plan satisfies the "good faith" requirement
21 of section 1129(a)(3).

22 There is ample evidence to support a finding of good faith. The Plan provides for the
23 payment in full of all allowed administrative, priority, and general unsecured claims on the
24 Effective Date. The Debtor believes that if the Plan fails to be confirmed, further negotiations will
25 not result in any better recovery for any class. To the contrary, new negotiations and/or litigation
26 would delay the process of making distributions to creditors. The Debtor will then incur
27 substantial additional administrative claims.

28

1 **D. The Plan Provides for Court Approval of Fees and Costs Paid by the Estate (Section**
2 **1129(a)(4))**

3 Section 1129(a)(4) provides that the court shall confirm a plan only if:

4 [a]ny payment made or to be made by the proponent, by the debtor, or by
5 a person issuing securities or acquiring property under the plan, for
6 services or for costs and expenses in or in connection with the case, or in
7 connection with the plan and incident to the case, has been approved by,
8 or is subject to the approval of, the court as reasonable.

9 11 U.S.C. § 1129(a)(4).

10 Section 1129(a)(4) is directed primarily at policing the award and payment of professional
11 fees from the estates in chapter 11 cases. See 5 COLLIER ON BANKRUPTCY ¶ 1129.02[4] at 1129-
12 31 (15th ed. 1991) (“Section 1129(a)(4) protects the integrity of the reorganization process by
13 assuring creditors that payments from the debtor’s estate will be subject to court review.”).

14 The procedures set forth in the Plan for the Court’s review and ultimate determination of
15 the fees and expenses to be paid to professionals from by the Debtor satisfy the objectives of
16 section 1129(a)(4). See In re Future Energy Corp., 83 B.R. 470, 488 (Bankr. S.D. Ohio 1988)
17 (“Court approval of payments for services and expenses is governed by various Code provisions,
18 e.g., §§ 328, 329, 330, 331, and 503(b) and need not be explicitly provided for in a Chapter 11
19 plan.”) Thus, payments of the type specified in section 1129(a)(4) will only be made after this
20 Court allows the expenses.

21 The Debtor has employed two professionals – Irell & Manella (“Irell”) as its general
22 insolvency counsel and The Stapleton Group (“Stapleton Group”) as the property manager for the
23 Long Beach Property. Stapleton Group will be paid in the ordinary course of business once its
24 employment application has been approved by the Court. As of the date hereof, Irell had received
25 a total of \$385,000 in funds comprised of \$85,000 in retainer which it held on the Petition Date
26 plus an additional \$300,000 received in connection with the DIP Financing (and an additional
27 \$176,000 is currently being held in escrow).

28 As set forth in greater detail in the Abbey Declaration, the funds necessary to pay the
balance of Irell’s professional fees will be obtained by Mr. Abbey through the refinancing or other

1 utilization of assets that are not the subject of the Debtor's bankruptcy. Pursuant to the Plan, such
2 fees must be in place at the time Irell's fees are finally approved by the Court, which Irell
3 anticipates will be in or around September 2015.

4 **E. The Plan Complies with Section 1129(a)(5) Regarding the Identity of Officers,**
5 **Directors, and Insiders**

6 Section 1129(a)(5) mandates that a plan proponent disclose the identity and affiliations of
7 any known individual proposed to serve after confirmation of the Plan as an officer, director, or
8 voting trustee and further requires the disclosure of any insider to be employed or retained by the
9 Debtor and the nature of compensation to be paid to such insider. 11 U.S.C. § 1129(a)(5). With
10 respect to any officer, director or voting trustee, the appointment or continuance in office of an
11 individual must be consistent with the interests of creditors and equity security holders and with
12 public policy.

13 The Reorganized Debtor will be a limited liability company and will not have any officers
14 or directors. The Reorganized Debtor's managing member will be LB Hangar. The managing
15 member of LB Hangar will be APII. The managing member of APII will remain ACLLC and the
16 Chief Executive Officer of ACLLC will remain Mr. Abbey.

17 The Debtor has employed the Stapleton Group as the property manager for the Long Beach
18 Property. The Stapleton Group will also serve as the disbursing agent under the Plan. The
19 Stapleton Group will be paid 3% of the aggregate gross revenues of the Long Beach Property for
20 the applicable monthly account period, subject to approval of the Stapleton Group's employment
21 by the Bankruptcy Court, which the Debtor anticipates will be approximately \$8,000 per month.

22 Based on the foregoing, the requirements of section 1129(a)(5) are satisfied.

23 **F. The Plan Does Not Require Approval of Any Regulatory Commission (Section**
24 **1129(a)(6))**

25 Section 1129(a)(6) requires that "[a]ny governmental regulatory commission with
26 jurisdiction, after confirmation of the plan, over the rates of the debtor has approved any rate
27 change provided for in the plan, or such rate change is expressly conditioned on such approval."

28

1 11 U.S.C. § 1129(a)(6). In the present case, the Plan does not provide for changes in rates of the
2 Debtor nor are such rates subject to approval by any governmental regulatory commission.
3 Therefore, section 1129(a)(6) is inapplicable.

4 **G. The Plan Satisfies the Best Interests of Creditors Test (Section 1129(a)(7))**

5 Section 1129(a)(7) requires that a plan proponent demonstrate that the plan meet the “best
6 interest of creditors” test. 11 U.S.C. § 1129(b)(7); see also In re M. Long Arabians, 103 B.R. 211,
7 216 (B.A.P. 9th Cir. 1989); In re Diversified Investors Fund XVII, 91 B.R. 559, 561 (Bankr. C.D.
8 Cal. 1988). Under this test, each holder of a claim or interest in an impaired class must either
9 accept the plan or receive or retain under the plan on account of such claim or interest property of
10 a value, as of the effective date of the plan, that is not less than the amount that such holder would
11 so receive or retain if the debtor were liquidated under a hypothetical chapter 7 case. See 11
12 U.S.C. § 1129(a)(7); Travelers Ins. Co. v. Pikes Peak Water Co. (In re Pikes Peak Water Co.), 779
13 F.2d 1456, 1460 (10th Cir. 1985); In re Victory Constr. Co., Inc., 42 B.R. 145, 151 (Bankr. C.D.
14 Cal. 1984).

15 As noted above, holders of claims in Class One will receive payment in full upon the
16 Effective Date of the Plan, with interest from the Petition Date through the date of payment at the
17 Federal Judgment Rate. See Plan, § IV. In addition, the Plan provides that U.S. Bank (Class
18 Two) and LCS (Class Three) shall retain their rights under the relevant agreements with the
19 Debtor. Thus, Class One (Unsecured Claims), Class Two (Claim of U.S. Bank), and the Class
20 Three (Claim of LCS) are unimpaired and are deemed to have accepted the Plan.

21 Class 4 (Membership Interest of APII) is the only impaired class under the Plan. The Plan
22 provides that APII’s interests in the Debtor will be transferred to LB Hangar. APII shall be the
23 sole member of LB Hangar and LB Hangar shall be the sole member of the Debtor. Therefore,
24 although APII’s rights with respect to the Debtor have been modified, APII will remain the
25 ultimate owner of 100% of the Debtor. APII has submitted its ballot accepting the Plan.

26 Accordingly, the Debtor believes that the requirements of section 1129(a)(7) are satisfied.
27
28

1 **H. Acceptance or Impairment (Section 1129(a)(8))**

2 Section 1129(a)(8) requires that each class of claims and interests has either accepted the
3 Plan or is not impaired under the Plan. 11 U.S.C. § 1129(a)(8). A class of claims accepts the Plan
4 if holders of at least two-thirds in dollar amount and a majority in number of claims of that class
5 vote to accept the Plan, counting only those claims whose holders actually vote on the Plan. See
6 11 U.S.C. § 1126(c). A class of equity interests accepts the Plan if holders of at least two-thirds of
7 the number of shares vote to accept the Plan, counting only those shares whose holders actually
8 vote. See 11 U.S.C. § 1126(d).

9 As discussed above, Classes One, Two and Three are not impaired under the Plan and,
10 therefore, are deemed to have accepted the Plan. See 11 U.S.C. §§ 1124, 1126(f); Great Western
11 & Trust v. Entz-White Lumber & Supply, Inc. (In re Entz-White Lumber & Supply, Inc.), 850
12 F.2d 1338, 1340 n.3 (9th Cir. 1988) (class that is not impaired under section 1124 is conclusively
13 presumed to have accepted plan).

14 As indicated in the Ballot Analysis, impaired Class 4 (Membership Interest of APII) has
15 voted to accept the Plan. As a result, section 1129(a)(8) is satisfied as to this Class.

16 **I. Payment of Administrative and Priority Claims (Section 1129(a)(9))**

17 Section 1129(a)(9) contains provisions generally requiring payment in cash of
18 administrative and non-tax priority claims and permitting the deferred payment of priority tax
19 claims over a period not exceeding five years. Article IX of the Plan provides for the payment in
20 full in cash of allowed administrative claims, unless the holder agrees to other treatment of the
21 claim. Payment of an allowed administrative claim shall occur on the later of the Plan's Effective
22 Date, or the date on which the administrative claim is allowed.

23 With respect to priority tax claims entitled to priority under section 507(a)(8), Article IX of
24 the Plan provides that, except as otherwise agreed to by the parties, each holder of an allowed
25 priority tax claim against the Debtor shall receive, on the Effective Date, in full satisfaction,
26 release and discharge of such allowed priority tax claim, payment in full plus interest.

27
28

1 In addition, Article IX of the Plan provides that all allowed priority claims will be paid in
2 full in Cash on the Effective Date.

3 As a consequence, the Plan satisfies all of the requirements of section 1129(a)(9).

4 **J. Section 1129(a)(10) is Not Applicable**

5 Section 1129(a)(10) requires that “[i]f a class of claims is impaired under the plan, at least
6 one class of claims that is impaired under the plan has accepted the plan, determined without
7 including any acceptance of the plan by any insider.” 11 U.S.C. § 1129(a)(10) (emphasis added);
8 see also In re Ruti-Sweetwater, Inc., 836 F.2d 1263, 1267 (10th Cir. 1988); In re Toy & Sports
9 Warehouse, Inc., 37 B.R. 141, 151 (Bankr. S.D.N.Y. 1984); Buffalo Sav. Bank v. Marston Enters.,
10 Inc. (In re Marston Enters., Inc.), 13 B.R. 514, 518-19 (Bankr. E.D.N.Y. 1981).

11 In this case, all of the classes of claims under the Plan are unimpaired and the only
12 impaired class is Class 4 (Membership Interest of APII), which has accepted the Plan. Since no
13 class of claims is impaired under the Plan, section 1129(a)(10) simply does not apply. See, e.g., In
14 re Lionel, LLC, 2008 Bankr. Lexis 1047, *20 (S.D.N.Y. Mar. 31, 2008) (section 1129(a)(10) did
15 not apply when all classes of claims were unimpaired and a single class of equity interests was
16 deemed to reject the plan because it took nothing). This reading of section 1129(a)(10) is
17 consistent with the policy underlying section 1129(a)(10), which is to protect impaired creditors
18 from being bound by plans that had no support among the classes of impaired creditors. See, e.g.,
19 In re South Canaan Cellular Investments, 427 B.R. 44, 79 (E.D. Pa. 2010). In this case, no
20 creditors are impaired and therefore there is no need for the protections provided by section
21 1129(a)(10).

22 Therefore, section 1129(a)(10) is inapplicable.

23 **K. Feasibility (Section 1129(a)(11))**

24 Section 1129(a)(11) requires that the Court find that confirmation of the Plan is not likely
25 to be followed by the liquidation or the need for further financial reorganization of the Debtor,
26 unless such liquidation or reorganization is provided for in the Plan. 11 U.S.C. § 1129(a)(11).

27
28

1 The feasibility requirement is satisfied by a showing of a “reasonable probability of success.” See
2 In re Acequia, Inc., 787 F.2d at 1364.

3 In interpreting the requirements of section 1129(a)(11), courts have found the language of
4 the statute to be “sufficiently broad so as to have provided a great deal of latitude to Courts
5 interpreting its provisions.” In re Eddington Thread Mfg., Co., 181 B.R. 826, 832-33 (Bankr. E.D.
6 Pa. 1995). The courts have also universally interpreted the statute to mean that a debtor need only
7 demonstrate a reasonable assurance of commercial viability, and the court need not require a
8 guarantee of success in order to find that a plan satisfies the feasibility requirement. See, e.g., In
9 re T-H New Orleans Ltd. P’ship, 116 F.3d 790, 801 (5th Cir. 1997); In re Briscoe Enters., Ltd.,
10 994 F.2d 1160, 1165-66 (5th Cir. 1993); Kane v. Johns-Manville Corp., 843 F.2d at 649-50; In re
11 Prussia Assocs., 322 B.R. 572, 584 (Bankr. E.D. Pa. 2005).

12 While the debtor bears the burden of proving plan feasibility, the applicable standard is by
13 a preponderance of the evidence – proof that a given fact is “more likely than not.” In re Briscoe
14 Enters., Ltd., 994 F.2d at 1164; see also In re T-H New Orleans Ltd., P’ship, 116 F.3d at 802;
15 Corestates Bank, N.A., 202 B.R. 33, 45 (E.D. Penn 1996). Further, a number of courts have held
16 that this constitutes “a relatively low threshold of proof.” In re Eddington Thread Mfg. Co., 181
17 B.R. at 833; In re Mayer Pollack Steel Corp., 174 B.R. 414, 423 (Bankr. E.D. Pa. 1994) (stating
18 that the debtors “have established that they meet the requisite low threshold of support for the Plan
19 as a viable undertaking ...”); see also In re Briscoe Enters. Ltd., 944 F.2d at 1116 (upholding the
20 bankruptcy court’s ruling that a reorganization that had only “a marginal prospect of success”
21 was feasible because only “a reasonable assurance of commercial viability” was required). “Just
22 as speculative prospects of success cannot sustain feasibility, speculative prospects of failure
23 cannot defeat feasibility. The mere prospect of financial uncertainty cannot defeat confirmation
24 on feasibility grounds since a guarantee of the future is not required.” In re Drexel Burnham
25 Lambert Group Inc., 138 B.R. 723, 762 (Bankr. S.D.N.Y. 1992).

26 The courts have fashioned a series of factors to be considered in the determination of
27 whether a debtor’s plan is feasible. These factors, while varying from case to case, traditionally
28

1 include: the adequacy of the debtor's capital structure, the earning power of its business, economic
2 conditions, the ability of the debtor's management, the probability of the continuation of the same
3 management, and other related matters affecting successful performance under the provisions of
4 the Plan. See, e.g., In re Prussia Assocs., 322 B.R. at 584; In re Greate Bay Hotel & Casino, Inc.,
5 251 B.R. 213, 226-27 (Bankr. D.N.J. 2000); see also In re T-H New Orleans Ltd., P'ship, 116 F.3d
6 at 801 (discussing the factors that the bankruptcy court examined in its decision that the debtor's
7 plan was feasible). Based on the evidence provided in connection with the Plan, the Plan satisfies
8 each of the factors courts consider in determining whether a plan of reorganization is feasible.

9 As a result of the DIP Financing and, as of the Effective Date, the Exit Financing, the
10 Debtor has sufficient funds to pay all allowed priority and general unsecured claims in full, with
11 interest, on the Effective Date. The Debtor estimates that the total amount of all allowed priority⁴
12 and general unsecured claims to be paid on the Effective Date will be approximately \$55,000.
13 Pursuant to orders of the court, \$131,690 has been irrevocably committed for the sole purpose of
14 paying these claims. Thus, the Debtor will have sufficient funds on the Effective Date to pay all
15 allowed priority and unsecured claims in full, with interest.

16 Similarly, as discussed above and in greater detail in the Abbey Declaration, Mr. Abbey
17 has committed to providing the Debtor with sufficient funds to pay all professional claims in full.

18 The Debtor also believes that through using the operational funding provided by the Exit
19 Financing, its business will continue to grow and will allow the Debtor to pay all expenses on a
20 going-forward basis. The Debtor developed the Long Beach Property for a variety of uses and
21 tenants, including significant facilities for the City of Long Beach (the "City") and the U.S.
22 Customs and Border Protection, a division of the Department of Homeland Security (the "CBP").
23 The space rented by the CBP is approximately 16.6% of the Long Beach Property. The City also
24 rents space at the Long Beach Property and currently occupies approximately 62.3% of the
25 property. Following the successful completion of its Chapter 11 case, the Debtor will continue to
26 lease space in the Long Beach Property to the GSA and the City. 21.1% of the Long Beach
27

28 ⁴ The priority claim of the Los Angeles County Treasurer and Tax Collector for the 2015-
2016 tax year will be paid in the ordinary course of business as it comes due.

1 Property is currently vacant. Following confirmation of the Plan, the Debtor intends to locate
2 tenants for the remainder of the Long Beach Property. The debtor-in-possession financing entered
3 into between the Debtor and the DIP Lender established a \$3,000,000 reserve to pay for costs
4 associated with entering into new tenant leases at the Long Beach Property, including costs for
5 tenant improvements. As discussed in greater detail in the Abbey Declaration, the Debtor has a
6 party interested in leasing the remainder of the vacant space of the Long Beach Property. In
7 addition, the Debtor has met with the City about possibly expanding their lease to include the
8 vacant space. The Debtor anticipates that it will be able to lease the vacant portion of the property
9 for approximately \$1.25 NNN per square foot.

10 Accordingly, the Debtor has established (or will establish if the Court determines that
11 additional evidence is required) that confirmation of the Plan is not likely to be followed by
12 liquidation or the need for further reorganization of the Debtor, and the Plan therefore meets the
13 standards of § 1129(a)(11).

14 **L. The United States Trustee's Fees Will be Paid (Section 1129(a)(12))**

15 Section 1129(a)(12) requires that all fees payable pursuant to 28 U.S.C. § 1930 (consisting
16 primarily of the quarterly fees to the United States Trustee) have been paid or that the Plan
17 provides for the payment of all such fees on the Effective Date of the Plan. 11 U.S.C. §
18 1129(a)(12). Section XIX.K of the Plan so provides, and therefore, the Plan satisfies section
19 1129(a)(12).

20 **M. Retiree Benefits (Section 1129(a)(13))**

21 Section 1129(a)(13) requires that a plan provide for the continued payment of certain
22 retiree benefits "for the duration of the period that the debtor has obligated itself to provide such
23 benefits." 11 U.S.C. § 1129(a)(13). The Debtor has no employees and no retirement plans.
24 Therefore, section 1129(a)(13) is not applicable.

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1 **N. Domestic Support Obligations (Section 1129(a)(14))**

2 Section 1129(a)(14) of the Bankruptcy Code, which requires a debtor to pay domestic
3 support obligations required to be paid by judicial or administrative order, is not applicable to the
4 Plan or this Chapter 11 case.

5 **O. Distributions in Cases in which the Debtor is an Individual (Section 1129(a)(15))**

6 Section 1129(a)(15) of the Bankruptcy Code applies only to cases in which the Debtor is
7 an individual. The Debtor in this case is not an individual, and this provision has no application to
8 the Plan or this Chapter 11 case.

9 **P. Transfers in Accordance with Nonbankruptcy Law (Section 1129(a)(16))**

10 Section 1129(a)(16) of the Bankruptcy Code applies only to cases of nonprofit entities.
11 The Debtor in this case is not a nonprofit entity, and this provision has no application to the Plan
12 or this Chapter 11 case.

13 **IV.**

14 **CONCLUSION**

15 The Plan satisfies each of the requirements for confirmation set forth in section 1129(a).
16 Therefore, the Debtor respectfully requests that the Court grant the Motion and enter an order
17 confirming the Plan under section 1129.

18 DATED: May 28, 2015

IRELL & MANELLA LLP

19
20 By: Kerri A. Lyman
21 Alan J. Friedman
22 Kerri A. Lyman
23 Attorneys for AP-Long Beach Airport LLC
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PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is: **840 Newport Center Drive, Suite 400, Newport Beach, California 92660-6324**

A true and correct copy of the foregoing document described as **MOTION FOR CONFIRMATION OF THE SECOND AMENDED PLAN OF REORGANIZATION OF AP-LONG BEACH AIRPORT LLC** will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner indicated below:

VII. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING(“NEF”) - Pursuant to controlling General Order(s) and Local Bankruptcy Rule(s) (“LBR”), the foregoing document will be served by the court via NEF and hyperlink to the document. On **May 28, 2015**, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following person(s) are on the Electronic Mail Notice List to receive NEF transmission at the email address(es) indicated below:

Service information continued on attached page

VIII. SERVED BY U.S. MAIL OR OVERNIGHT MAIL (indicate method for each person or entity served):

On **May 28, 2015**, I served the following person(s) and/or entity(ies) at the last known address(es) in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States Mail, first class, postage prepaid, and/or with an overnight mail service addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

Service information continued on attached page

IX. SERVED BY PERSONAL DELIVERY, FACSIMILE TRANSMISSION OR EMAIL (indicate method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on **May 28, 2015**, I served the following person(s) and/or entity(ies) by personal delivery, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on the judge will be completed no later than 24 hours after the document is filed.

Service information continued on attached page

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

May 28, 2015 Lori Gauthier */s/ Lori Gauthier*
Date *Type Name* *Signature*

1
2 **SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING("NEF")**

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20 **SERVED BY PERSONAL DELIVERY/ATTORNEY SERVICE:**

21 **Honorable Vincent Zurzolo**

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23 Central District of California
24 Edward R. Roybal Federal Building and Courthouse
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26 Los Angeles, CA 90012

27 **SERVED VIA FIRST-CLASS MAIL:**

28 **Office of the United States Trustee**

Attn: Kelly L. Morrison
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And Refer to Attached List

#3198827.v2 – Limit Notice Order Entered 1/2/15.

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