

TOLLING AGREEMENT

This Tolling Agreement ("Agreement") is effective as of July 10, 2020, and is made between the City of Torrance, a municipal corporation ("Torrance"), and the City of Lomita ("Lomita"), a municipal corporation. Torrance and Lomita may be referred to herein individually as "Party" and collectively as "Parties."

RECITALS

A. Torrance owns certain real property including Torrance Municipal Airport ("Airport"), located at 3301 Airport Drive, and properties adjacent to the Airport, including 2600 Skypark Drive, Torrance, California and others (collectively the "Airport Property"). Hi-Shear Corporation, d/b/a Lisi Aerospace ("Hi-Shear") currently leases 2600 Skypark Drive from Torrance (the "Property" or "Hi-Shear Site"). Hi-Shear manufactures aircraft and aerospace components on the Property and has done so since the early 1950's.

B. Hi-Shear currently leases the Hi-Shear Site from Torrance pursuant to an August 1, 2004, lease, as amended on July 1, 2014 (the "Lease"), and has continuously leased some portion of the Hi-Shear Site from the City of Torrance, and conducted business thereon, since in or about 1954.

C. Torrance contends, that beginning in or about 1954, in the course of conducting its business operations on and within the vicinity of the Hi-Shear Site, Hi-Shear received, stored, used, generated, transported, released, discharged and/or disposed of various "hazardous substances," "hazardous materials," "hazardous wastes," and/or "toxic chemicals," as such terms are defined under federal and state law (collectively, "Hazardous Substances"), including but not limited to, a Hazardous Substance known as trichloroethylene ("TCE"), and a Hazardous Substance known as perchloroethylene ("PCE," also known as tetrachloroethelene). TCE and PCE are chemical compounds that fall within the group of chemicals generally referred to as halogenated volatile organic compounds ("HVOCs").

D. On or about October 23, 2017, after the City of Torrance became aware of the existence of TCE and PCE and other HVOC compounds in soil, soil vapor and/or groundwater, within and migrating from the Hi-Shear Site, other Airport Property and property beyond the Airport Property (collectively, the "Contamination"), Torrance filed a lawsuit ("Torrance Complaint") against Hi-Shear in the United States District Court, in and for the Central District of California, titled, *City of Torrance v. Hi-Shear Corporation Case No.: 2:17-cv-07732-DSF-JPR* (Case assigned to Hon. Dale S. Fischer) (the "Action").

E. Torrance filed the Action to force Hi-Shear to fully assess and remediate the Contamination in accordance with all applicable federal and State laws, and in compliance with the requirements of the overseeing governmental agencies, including the California Regional Water Quality Control Board, Los Angeles Region (the "RWQCB").

F. Torrance further filed the Action to recover from Hi-Shear the substantial response costs and expenses Torrance had already incurred to address the Contamination caused by the various releases of the Hazardous Substances by Hi-Shear.

G. In response to the Torrance Complaint, Hi-Shear filed a Counterclaim against Torrance and a third-party complaint against other parties, naming over 60 third party defendants that Hi-Shear alleges are also responsible for releases of Hazardous Substances that contributed to the Contamination.

H. In its Counterclaim against Torrance, Hi-Shear alleged that Torrance is partially responsible for the Contamination because of Torrance's ownership of the Airport Property and other public property in and around the Airport. Hi-Shear has not alleged, however, that any operations conducted by the City of Torrance itself have caused or contributed to the Contamination.

I. Additionally, various environmental testing has shown that the Contamination has migrated beyond the boundaries of the City of Torrance and across Crenshaw Boulevard, through groundwater, into the City of Lomita, and that the Contamination is located within both privately owned property and publicly owned property within the City of Lomita.

J. In an effort to avoid unnecessary litigation fees and costs between themselves and to allow the Torrance Action against Hi-Shear, and related investigations, to proceed towards a resolution of the Contamination issues, the Cities of Torrance and Lomita wish to avoid litigation between themselves, and to thus toll all of their potential claims, rights, causes of action, and demands each may have against the other that concern or in any way relate to the Contamination.

K. As such, the Parties wish to enter into this Tolling Agreement as set forth herein.

NOW THEREFORE, in consideration of the mutual promises and covenants contained in this Agreement, and in reliance upon the representations and covenants made by Torrance and Lomita hereunder, the sufficiency of which are acknowledged, the Parties covenant and agree as follows:

1. Recitals. All of the foregoing recitals are true and correct and are incorporated herein by reference.
2. Tolling. The Parties agree that all statutes of limitations or repose, period of laches, and any other statute, law, rule or principle (of equity, estoppel or waiver) having similar effect relating to time limitations (collectively, "Statute of Limitations") applicable to any rights, claims, causes of action, counterclaims, crossclaims and defenses regarding, based upon, related to or arising out of the Contamination (whether known or unknown), that either Party has or may have against the other Party (the "Claims") shall be suspended and tolled as set forth herein.
 - a. The tolling period shall commence on the Effective Date, and shall expire five years following the Effective Date ("Expiration Date"), unless (i) terminated earlier in accordance with this Agreement or (ii) by operations of law pursuant to Code of Civil Procedure section 360.5.
 - b. The Expiration Date may be extended upon the mutual written consent of the Parties, in compliance with the terms of Code of Civil Procedure section 360.5.

- c. The period from and including the Effective Date of the Agreement until the Expiration Date, or any earlier Termination Date after notice (collectively, the "Tolling Period"), shall not be considered in any determination of the timeliness of the commencement of any action or proceeding with respect to the substance of this Agreement.
 - d. Nothing in this Agreement shall revive any Claim which, as of the Effective Date, would have been barred or precluded by the expiration of any Statute of Limitations, including but not limited to, by the expiration of any applicable statute of limitations or the equitable doctrines of laches, estoppel, waiver or other defense based on the passage of time.
 - e. This Agreement shall not limit or affect any defense based on any statute of limitations, estoppel, waiver or other similar defense, to the extent such defense or defenses are not based on the passage of time occurring during the Tolling Period.
 - f. This Agreement is intended to satisfy California Code of Civil Procedure section 360.5 and any other provision of law necessary to extend any statute of limitations or statute of repose.
3. No Admission of Liability. This Agreement shall not be construed as an admission of any fact or actual or potential liability on the part of any Party. This Agreement may not be offered as evidence of an admission of any liability or fact in any court proceedings.
4. Termination. Any Party may terminate this Agreement prior to the Expiration Date by delivering written notice to the other Party as set forth herein. Notice shall be sent by certified mail, return receipt requested. The termination shall be deemed effective thirty (30) days after receipt of the termination notice ("Termination Date").
5. Binding Effect. Except as otherwise provided in this Agreement, this Agreement is binding upon and inures to the benefit of the Parties and their respective successors and permitted assigns. Except as expressly provided herein, nothing in this Agreement is intended to confer on any person, other than the Parties hereto and their respective successors and permitted assigns, any rights or remedies under or by reason of this Agreement.
6. Authority to Bind Parties. Each person executing this Agreement warrants that he or she is empowered and authorized to so execute, and has the authority to fully bind the entities in the manner herein described.
7. Notices. Any further notices shall be delivered:

TO LOMITA:

City of Lomita
24300 Narbonne Avenue
Lomita, California 90717
Attn: City Manager

TO TORRANCE:

City of Torrance
3031 Torrance Boulevard
Torrance, CA 90503
Attn: City Attorney

8. Governing Law. This Agreement shall be governed and construed in accordance with the laws of the State of California and is binding upon the Parties. Venue for any action arising from this Agreement shall be exclusively in the courts located in Los Angeles County, California.
9. Counterparts. This Agreement may be executed in any number of counterparts with the same effect as if the Parties had signed the same document. All counterparts shall be construed together and shall constitute one agreement. Scanned or electronic signatures shall be interpreted the same as original signatures.
10. Entire Agreement. This Agreement constitutes the entire agreement among the Parties hereto pertaining to the subject matter thereof; fully supersedes any and all prior understandings and/or agreement between the Parties hereto, or any of them, pertaining to the subject matter thereof; and may be modified only by written agreement signed by all of the Parties thereto.
11. Captions. The captions of this Agreement are for convenience only and are not a part of this Agreement and do not in any way limit or amplify the terms and provisions of this Agreement.
12. Modification. The provisions of this Agreement may only be amended, modified or waived by written agreement executed by all Parties.

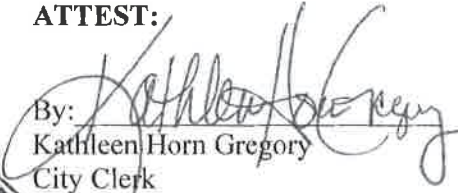
[Signatures on Following Page]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as set forth below.

CITY OF LOMITA:

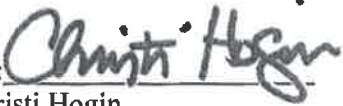
By: 
Ryan Smoot
City Manager

ATTEST:

By: 
Kathleen Horn Gregory
City Clerk



APPROVED AS TO FORM:

By: 
Christi Hogin
City Attorney

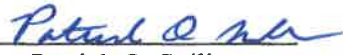
CITY OF TORRANCE:

By: 
LeRoy Jackson
City Manager

ATTEST:

By: 
for Rebecca Poirier
City Clerk

APPROVED AS TO FORM:

By: 
Patrick Q. Sullivan
City Attorney