

**CITY OF EL PASO, TEXAS
AGENDA ITEM
DEPARTMENT HEAD'S SUMMARY FORM**

DEPARTMENT: Aviation

AGENDA DATE: August 21, 2018

CONTACT PERSON NAME AND PHONE NUMBER: Monica Lombrana, (915) 212-7301

DISTRICT(S) AFFECTED: District 3

CITY STRATEGIC GOAL 1: Create an Environment Conducive to Strong, Sustainable Economic Development.

SUBJECT:

This is a Resolution to authorize the City Manager to sign a First Amendment to Air Cargo Center Lease by and among the City of El Paso (Lessor) and United Parcel Service, Inc. (Lessee) for additional aircraft parking apron at the Air Cargo Center located at 301 George Perry Blvd., El Paso, Texas to accommodate Lessee's increase in weekly cargo flights and to identify the leased premises as Suite E.

This lease amendment will allow the Department of Aviation to charge the Lessee for the use of cargo ground service equipment parking space based on a daily rate, half-day rate or quarter day rate depending on the number of hours the space is used. This will allow UPS to expand its cargo operations at the El Paso International Airport by adding one flight six times per week.

The projected additional rental fees for the cargo ground service equipment parking space is expected to be \$14,308.32 per year based on two hours use for one flight per day six times per week. All other terms and conditions of the lease will remain the same.

BACKGROUND / DISCUSSION:

The Department of Aviation is requesting approval of this item to allow United Parcel Services, Inc. (UPS) to expand its operations at the El Paso International Airport (EPIA). UPS will be adding one flight per day six times per week to support its growing business. At UPS's request, EPIA is proposing to provide a daily, half-day and quarter day rental rate for non-exclusive use of the cargo ramp space to process this flight.

As well as this additional space rental, EPIA is requesting to correct an error in the original lease whereas the space leased to UPS was incorrectly identified as 301 George Perry Blvd., Suite D. They actually occupy 301 George Perry Blvd., Suite E.

New Rental Fees

Cargo ground service equipment parking	47,940 SF x daily rate = \$183.43 (8 hours)
	x half day rate = \$91.71 (4 hours)
	x quarter day rate = \$45.86 (2 hours)

Projected Annual Rental Fees	\$14,308.32
(1 flight 6 times per week, 2 hours)	

Current Term: Initial term of five (5) years with two (2) options of five (5) years each; tenant has exercised first option as of 9/1/2017; second option would begin on 9/1/2022, if exercised

Current Annual Rental Fees:

Office/warehouse	3,146 SF x \$7.07 per SF per year = \$22,242.22
Vehicle parking	1,300 SF x \$0.726 per SF per year = \$943.80
Cargo ground service equipment parking	97,180 SF x \$0.726 per SF per year = \$ 70,552.68
Total Annual Rental Fees	\$93,738.70

PRIOR COUNCIL ACTION:

8/28/2012 – Approval of Air Cargo Center Lease

AMOUNT AND SOURCE OF FUNDING:

N/A: This is a revenue generating item.

BOARD / COMMISSION ACTION:

N/A

*****REQUIRED AUTHORIZATION*****

DEPARTMENT HEAD:



Monica Lombraña, A.A.E.

Managing Director of Aviation and International Bridges

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the City Manager be authorized to sign a First Amendment to an Air Cargo Center Agreement by and between the City of El Paso ("Lessor") and United Parcel Service, Inc. ("Lessee") for additional aircraft parking apron at the Air Cargo Center located at 301 George Perry Blvd., El Paso, Texas to accommodate Lessee's increase in weekly cargo flights and to identify the leased premises as Suite E.

Dated this ____ day of _____, 2018.

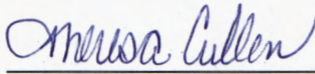
CITY OF EL PASO

Dee Margo
Mayor

ATTEST:

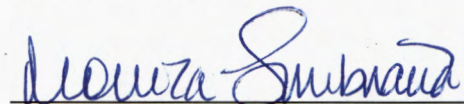
Laura D. Prine
City Clerk

APPROVED AS TO FORM:



Theresa Cullen
Deputy City Attorney

APPROVED AS TO CONTENT:



Monica Lombraña, A.A.E.,
Managing Director of Aviation and
International Bridges

STATE OF TEXAS)
)
COUNTY OF EL PASO)

**FIRST AMENDMENT TO
AIR CARGO CENTER LEASE**

This First Amendment to the Air Cargo Center Agreement (the "Amendment") is made and entered into this _____ day _____, 2018, by and between the City of El Paso, a municipal corporation existing under the laws of the State of Texas (the "Lessor"), and United Parcel Service, Inc., an Ohio corporation ("Lessee").

WHEREAS, on August 28, 2012, the Lessor and Lessee entered into an Air Cargo Center Agreement ("Lease") to lease office, warehouse and ramp space known as Air Cargo Center, 301 George Perry Blvd., Suite E, El Paso International Airport (the Airport), El Paso, Texas; and

WHEREAS, Lessee will be increasing the number of its weekly cargo flights at the Airport and will need additional ramp space to accommodate additional aircraft,

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree to amend the Lease as follows:

1. The address of the Premises is hereby amended to read "Suite E" instead of "Suite D".
2. **Section 1.01, Description of Premises Demised**, subsection C, of the Lease is amended in its entirety to read as follows:

- C. The exclusive use of **97,180** square feet, more or less, of the aircraft parking apron and ground service equipment parking apron directly behind said Air Cargo Center as shown on Exhibit "A";

The non-exclusive use of **47,940** square feet, more or less, of the aircraft parking apron and ground service equipment parking apron directly behind said Air Cargo Center as shown on Exhibit "A-1", attached hereto and made a part hereof for all purposes, for parking aircraft on an "as-needed" basis; and

3. **Section 5.01, Rental** of the Lease is amended to include a new subsection to address the rental for aircraft using the additional 47,940 square feet, approximately, of the of the aircraft parking apron and ground service equipment parking apron directly behind said Air Cargo Center as shown on Exhibit "A-1" on an "as-needed" basis which will read as follows:

Section 5.01 Rental.

47,940 Sq. ft. of Aircraft Parking and Apron and

Ground Service Equipment Parking Apron at \$183.43 daily rate (8 hours)

\$ 91.71 half day (4 hours)

\$ 45.86 quarter day (2 hours)

Lessee will report the use of the aircraft parking apron and ground service equipment parking apron directly behind said Air Cargo Center as shown on Exhibit "A-1" for parking aircraft on an as-needed basis as part of the Monthly Activity Report required by Section 6.02 of the May 13, 2013 Airline Operating Agreement and Terminal Building Lease between Lessor and Lessee.

4. **Article XI, General Provisions** of the Lease is amended to include a new **Subsection 11.19, FAA Order 1400.11**, which shall read as follows:

11.19. FAA Order 1400.11. Pursuant to Federal Aviation Administration Order 1400.11, effective August 27, 2013, and because the described premises are located at the El Paso International Airport which is subject to regulation by, among others, the U.S. Federal Aviation Administration, the parties specifically agree to the following:

1. A. Lessee for itself, its successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree, as a covenant running with the land, that in the event facilities are constructed, maintained, or otherwise operated on the property described in this Lease for a purpose for which a Federal Aviation Administration activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, Lessee will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations set out in Federal Aviation Administration Order 1400.11, Appendix 4, as same may be amended from time to time (the "Acts and Regulations") such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.

B. With respect to the Lease, in the event of breach of any of the above nondiscrimination covenants, Lessor will have the right to terminate the Lease and to enter or re-enter and repossess said Premises and the facilities thereon, and hold the same as if said easement had never been made or issued. [FAA Order 1400.11, Appendix C]

2. A. The Lessee for itself, its successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree, as a covenant running with the land, that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3)

that the Lessee will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and Regulations.

B. With respect to the Lease, in the event of breach of any of the above nondiscrimination covenants, Lessor will have the right to terminate the Lease and to enter or re-enter and repossess said Premises and the facilities thereon, and hold the same as if said lease had never been made or issued. [FAA Order 1400.11, Appendix D]

3. A. During the term of this Lease, Lessee for itself, its successors in interest, and assigns, as a part of the consideration hereof, agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination In Federally-Assisted Programs of The Department of Transportation—Effectuation of Title VI of The Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). Grantee shall take reasonable

steps to ensure that LEP persons have meaningful access to its programs (70 Fed. Reg. at 74087 to 74100);

- Title IX of the Education Amendments of 1972, as amended, which prohibits discrimination because of sex in education programs or activities (20 U.S.C. 1681 et seq).

B. In the event of breach of any of the covenants in this section 3, Lessor shall have the rights and remedies set forth in sections 1 and 2 above, in addition to all other rights and remedies available to it under applicable law. [FAA Order 1400.11, Appendix E]

5. Except as herein amended, all other terms and conditions of the Lease not specifically modified by this Amendment shall remain unchanged and in full force and effect.

6. This Amendment shall be effective upon the date it is approved by the El Paso City Council.

[SIGNATURES BEGIN ON THE FOLLOWING PAGE]

LESSOR: CITY OF EL PASO

Tomás González
City Manager

APPROVED AS TO FORM:

Theresa Cullen
Theresa Cullen
Deputy City Attorney

APPROVED AS TO CONTENT:

Monica Lombrana
Monica Lombrana, A. A. E., Managing
Director of Aviation and International
Bridges

ACKNOWLEDGMENT

THE STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on this ____ day of _____ 2018
by Tomás González, as City Manager of the City of El Paso (Lessor).

Notary Public, State of Texas

My Commission Expires:

[SIGNATURES CONTINUE ON THE FOLLOWING PAGE]

LESSEE:

UNITED PARCEL SERVICE, INC.

By: [Signature]
Print Name: Sara S. Martinson
Title: VP

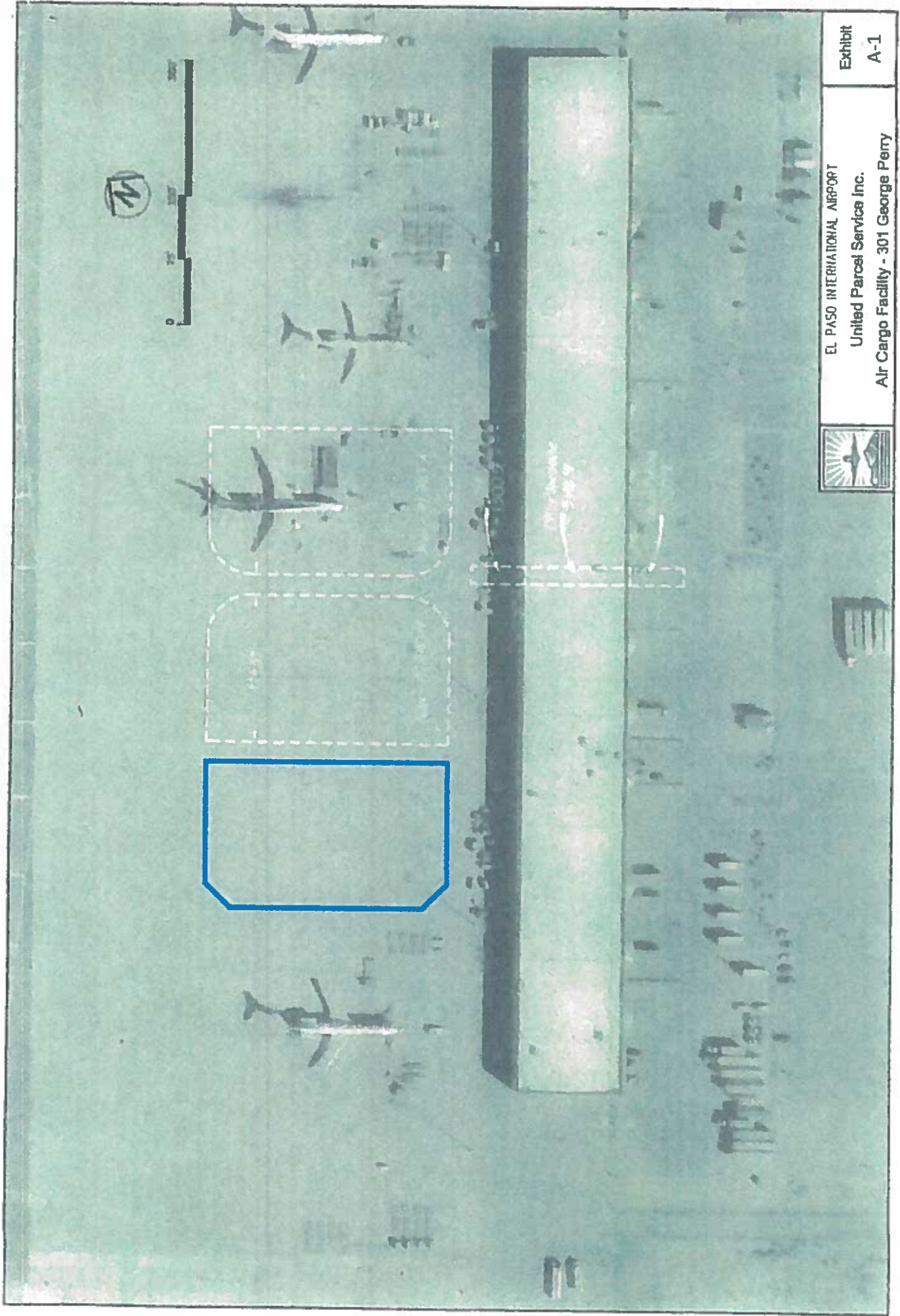
STATE OF KENTUCKY)
)
COUNTY OF JEFFERSON)

The forgoing was acknowledged before me on this 23 day of July, 2018
by Sara S. Martinson, VP of United Parcel Service,
Inc. (Lessee).

[Signature]
Notary Public, State of Kentucky

My Commission Expires: 01/31/2020

Exhibit A-1 -- Aircraft and Ground Service Equipment Parking Apron



EL PASO INTERNATIONAL AIRPORT
United Parcel Service Inc.
Air Cargo Facility - 301 George Perry

Exhibit
A-1