

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

DEPARTMENT: Aviation

AGENDA DATE: October 29, 2019

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

DISTRICT(S) AFFECTED: 2

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

SUBJECT:

Resolution to authorize the City Manager to sign a First Amendment to the Building Lease between the City of El Paso (Lessor) and The Paradies Shops, Inc. (Lessee) for that certain office and warehouse space containing 3,000 square feet, more or less, also known as 6409 Convair Road, El Paso, Texas.

The amendment will add 6 years and 8 months to the term of the lease for a total term of 16 years and 8 months. The space rental is as follows:

	Sq. Ft.	Annual Rate	Annual Rent
Office/Warehouse	3,000	\$ 7.6114	\$ 22,834.20
GSE Parking	2,100	\$ 0.7260	\$ 1,524.60
Total	5,100		\$ 24,358.80

There is no rental increase at this point as the rental rates were recently adjusted and are within the standard cargo rental rate.

BACKGROUND / DISCUSSION:

The Department of Aviation is requesting approval of this item to allow Paradies-Legardère, the airport's news and gift concessionaire, continue occupying and operating the warehouse that supports its operations inside the airport terminal. The amendment provides for additional term of the lease, which will end on July 30, 2026, which is concomitant with the termination date of Paradies' concession agreement. In addition to adding term, the amendment also updates the U.S. Federal Aviation Administration required language in the agreement.

PRIOR COUNCIL ACTION:

11/10/2019 – Approval of Building 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 is authorized to sign a First Amendment to the Building Lease by and between the City of El Paso ("Lessor"), and The Paradies Shops, LLC ("Lessee") for the following described property:

That certain office and warehouse space containing 3,000 square feet, more or less, also known as 6409 Convair Road, El Paso, Texas.

Dated this ____ day of _____ 2019.

CITY OF EL PASO

Dee Margo
Mayor

ATTEST:

Laura D. Prine
City Clerk

APPROVED AS TO FORM:



Josette Flores
Senior Assistant City Attorney

APPROVED AS TO CONTENT:



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

STATE OF TEXAS)
)
COUNTY OF EL PASO)

First Amendment to Building Lease Agreement

This First Amendment to the Building Lease Agreement (the "Lease") is entered on _____, 2019 ("Effective Date") between the CITY OF EL PASO ("Lessor"), a home-rule municipality existing under the laws of the State of Texas, and THE PARADIES SHOPS, LLC, a Georgia Limited Liability Company (fka The Paradies Shops, Inc.) ("Lessee").

WHEREAS, Lessor and Lessee entered into the Lease on November 10, 2009, to meet Lessee's storage space requirements for products to be sold in conjunction with Lessee's separate Retail Concession Agreement regarding its retail operations at the El Paso International Airport; and

WHEREAS, the parties wish to amend the Lease to extend the Lease to terminate at the same time as said Retail Concessions Agreement;

WHEREAS, the parties wish to amend the rental section of the Lease to reflect the current rates of lease space at the El Paso International Airport; and

WHEREAS, the parties also wish to update the language required by the U.S. Federal Aviation Administration ("FAA").

NOW THEREFORE, the parties agree as follows:

1. **Section 4.01, Term**, of the Lease is amended to increase the initial term as follows:

Section 4.01 Term. The term of this Agreement shall commence on the Effective Date, which is first noted on the title page, and shall continue until July 30, 2026 (hereinafter referred to as "the Term").

2. **Section 5.01 Rental** is amended to read as follows:

For the purpose of computing the rental payments, Lessor and Lessee agree that the Premises comprise of the following:

3,000 Sq. ft. of Office and Warehouse Space at \$7.6114/Sq. ft/ year = \$22,834.20/year or \$1,902.85/month;

600 Sq. ft of Ground Service Equipment Parking at \$0.7260/Sq. ft/year = \$435.60/year or \$36.30/month; and

1,500 Sq. ft. of Vehicle Parking Space at \$0.7260/Sq. ft/year = \$1,089.00/year or \$90.75/month.

3. **Section 5.03, Readjustment of Rental**, of the Lease is amended to reflect that the Rent shall be adjusted on the fifth anniversary of the Effective Date of this First Amendment. All other provisions of Section 5.03 remain in full force and effect.
4. **Section 10.06, Compliance with Nondiscrimination Requirements**, is amended in its entirety to update the FAA required language as follows:

10.06 Compliance with Nondiscrimination Requirements

During the performance of this contract, the Lessee, for itself, its assignees, and successors in interest (for purposes of this Section 10.06 hereinafter referred to as the "Contractor"), agrees as follows:

1. **Compliance with Regulations:** The Contractor (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Nondiscrimination:** The Contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.
3. **Solicitations for Subcontracts, including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the contractor's obligations under this contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.
4. **Information and Reports:** The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Lessor (for purposes of this Section 12.08 hereinafter referred to as the "sponsor") or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Contractor will so certify to the sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a Contractor's noncompliance with the non-discrimination provisions of this contract, the sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:

- a. Withholding payments to the Contractor under the contract until the Contractor complies; and/or
 - b. Cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The Contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. The Contractor will take action with respect to any subcontract or procurement as the sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Contractor may request the sponsor to enter into any litigation to protect the interests of the sponsor. In addition, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.
5. **Section 10.19, General Civil Rights Provision** is added in its entirety to include the FAA required language as follows:

10.19 General Civil Rights Provision.

Lessee agrees to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance. If the Lessee transfers its obligation to another, the transferee is obligated in the same manner as the transferor.

This provision obligates the Lessee for the period during which the property is owned, used or possessed by the Lessee and the airport remains obligated to the Federal Aviation Administration. This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

6. **Section 10.20, FAA Order 14.001** is added in its entirety to include the FAA required language as follows:

10.20 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. Tenant 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 Nondiscrimination Acts and Regulations listed in Pertinent List of Nondiscrimination

Authorities (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, Landlord 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 instrument had never been made or issued. [FAA Order 1400.11, Appendix C]

2. A. The Tenant 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 Tenant will use the premises in compliance with all other requirements imposed by or pursuant to the listed acts and authorities appearing in the Acts and Regulations.

B. With respect to the Lease, in the event of breach of any of the above nondiscrimination covenants, Landlord 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 instrument had never been made or issued. [FAA Order 1400.11, Appendix D]

3. A. During the term of this Lease, Tenant for itself, its assignees, and successors in interest, 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 USC § 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 USC § 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 USC § 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 USC § 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 USC §§ 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 USC § 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 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 USC 1681 *et seq.*).

B. In the event of breach of any of the covenants in this section 3, Landlord 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]

6. Ratification. 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.

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

(Signatures begin on the following page)

EXECUTED, this ____ day of _____ 2019.

LESSOR: CITY OF EL PASO

Tomás González
City Manager

APPROVED AS TO FORM:

Josette Flores
Senior Assistant City Attorney

APPROVED AS TO CONTENT:

Monica Lombraña, 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 _____ 2019,
by Tomás González as City Manager of the City of El Paso, Texas.

Notary Public, State of Texas

My Commission Expires:

(Signatures continue on the following page)

LESSEE: THE PARADIES SHOPS,
LLC (fka The Paradies Shops,
Inc.)

By: [Signature]
Printed Name: Gregg Paradies
Title: President

ATTEST:

[Signature]
Karen Suttle
Secretary

ACKNOWLEDGMENT

THE STATE OF Georgia
COUNTY OF Cobb

This instrument was acknowledged before me on this 17 day of October 2019,
by Gregg Paradies, President of THE PARADIES SHOPS, LLC (fka The Paradies Shops, Inc.),
("Lessee") on behalf of said company.

[Signature]
Notary Public, State of _____

My Commission Expires:

Christine M Thomas
Notary Public
Douglas County, Georgia
My Commission Expires 8/24/2022