

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

DEPARTMENT: El Paso International Airport
AGENDA DATE: December 12, 2017
CONTACT PERSON/PHONE: Monica Lombraña, A.A.E., Managing Director of Aviation and International Bridges Director of Aviation, (915) 212-7301

DISTRICT(S) AFFECTED: 2
STRATEGIC GOAL: NO. #1: Create an Environment Conducive to Strong, Sustainable Economic Development

SUBJECT:
That the City Manager be authorized to sign the First Amendment to Butterfield Trail Industrial Park Lease by and between the City of El Paso and ST AG IND El Paso 6, LP for the following described property to include language required by the Federal Aviation Administration:
1,586,532 square feet of land, more or less, being a portion of Lot 1, all of Lot 2 and all of Lot 3, Block 14, Butterfield Trail Industrial Park Unit Three, municipally known and numbered as 48 Walter Jones Blvd./32 Celerity Wagon St., City of El Paso, El Paso County, Texas.

Terms remain the same:
40-year lease, with one (1) ten year options to extend, rent will be adjusted on each fifth (5th) anniversary based on percentage increases in the Consumer Price Index for all Urban Consumers (CPI-U), with a 20% cap
Lease area- 1,586,523 square feet
Rate- \$0.2300/ sq. ft. \$364,900.29 annually
Remaining term- 39 years

BACKGROUND / DISCUSSION:
This first amendment will update the lease to include the required FAA clauses which prohibit discrimination on the grounds of race, color, or national origin under any program or activity receiving Federal financial assistance. Title 49 United States Code (U.S.C.) § 47123 provides similar protections to individuals that participate in activity funded by monies received from an Airport Improvement Program (AIP) grant. It also extends protection on the basis of sex and creed. The Age Discrimination act of 1975 prohibits discrimination on the basis of age in federally assisted programs. FAA's policy is to comply fully with this non-discrimination requirements in all FAA assisted programs. Existing rental terms remain the same.

PRIOR COUNCIL ACTION:
12-20-2016: lease approved by City Council

AMOUNT AND SOURCE OF FUNDING:
Revenue Generating

BOARD / COMMISSION ACTION:
N/A

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

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

RESOLUTION

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

That the City Manager be authorized to sign the First Amendment to Butterfield Trail Industrial Park Lease by and between the City of El Paso and STAG IND El Paso 6, LP for the following described property to include language required by the Federal Aviation Administration:

1,586,532 square feet of land, more or less, being a portion of Lot 1, all of Lot 2 and all of Lot 3, Block 14, Butterfield Trail Industrial Park Unit Three, municipally known and numbered as 48 Walter Jones Blvd./32 Celerity Wagon St., City of El Paso, El Paso County, Texas.

Dated this ____ day of _____ 2017.

CITY OF EL PASO

Dee Margo
Mayor

ATTEST:

Laura D. Prine
Interim City Clerk

APPROVED AS TO FORM:



Theresa Cullen
Deputy City Attorney

APPROVED AS TO CONTENT:



for: _____
Monica Lombraña, A.A.E.
Director of Aviation

STATE OF TEXAS)
)
COUNTY OF EL PASO) **FIRST AMENDMENT TO BUTTERFIELD
TRAIL INDUSTRIAL PARK LEASE**

This First Amendment to the Butterfield Trail Industrial Park Lease by and between the City of El Paso (“Lessor”) and STAG IND El Paso 6 LP, a Delaware limited partnership (“Lessee”), is made this ____ day of _____, 2017 (the “Effective Date”).

WHEREAS, the City of El Paso (“Lessor”) entered into a Butterfield Trail Industrial Park Lease effective December 20, 2016 (“Lease”), between Lessor and 1091 Bragaw LLC and Quintus Properties LLC for the property legally described as:

1,586,532 square feet of land, more or less, being a portion of Lot 1, all of Lot 2 and all of Lot 3, Block 14, Butterfield Trail Industrial Park Unit Three, municipally known and numbered as 48 Walter Jones Blvd./32 Celerity Wagon St., City of El Paso, El Paso County, Texas;

WHEREAS, effective _____, 2017, the Lease was assigned to Lessee; and

WHEREAS, Lessor and Lessee desire to amend the Lease to include certain provisions required by the Federal Aviation Administration.

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 as follows:

1. Article XI, General Provision, is hereby amended to include the following:

11.21. **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. 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 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 easement 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].

2. Except as expressly modified herein, all other terms and conditions of the December 20, 2016 Butterfield Trail Industrial Park Lease shall remain in full force and effect and shall remain as written.

[SIGNATURES BEGIN ON THE FOLLOWING PAGE]

