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

DEPARTMENT: **Airport**
AGENDA DATE: **February 28, 2012**
CONTACT PERSON: **Monica Lombraña 780-4724**
DISTRICTS AFFECTED: **All Districts**

SUBJECT:
Approve a resolution authorizing the City Manager to sign an Industrial Site Lease between the City of El Paso (Lessor) and Airport Park-A-Lot El Paso LLC (Lessee) for an area described as, All of Lots 2, 3, and 4, Block 1A, El Paso international Airport Tracks, Replat of Unit 4, City of El Paso, El Paso County, Texas. Municipally know and numbered as 6440 Airport Road.

BACKGROUND / DISCUSSION:
On December 26, 1995, Lessor and Airport Industrial Leasehold, entered into an Industrial Site Lease, and on October 31, 2000, approved a First Amendment allowing Valet Automobile Parking. The lease was subsequently assigned to LFCW, LLC. on February 13, 2003 to include an additional 20,413 Sq Ft of land.

Parking Systems of America, AKA Airport Park-A-Lot El Paso LLC and LFCW entered into a sales agreement whereby Airport Park-A-Lot El Paso LLC acquired LFCW interest in the original lease, and desires to enter into a new lease, as a Valet Parking Lot, with the Lessor and relieve LFCW of its rights and responsibilities of the original lease.

- Term: Thirty (30) Years
- Options: Two (2) options of five (5) years each
- Annual Easement Fee: $111,622.78 ($9,301.90 per Month)
- 5-Year incremental rental rate increases based on the Consumer Price Index

PRIOR COUNCIL ACTION:
- December 26, 1995, original lease approved
- October 31, 2000, First Amendment to the lease approved
- February 13, 2003, Second Amendment, and Consent of Assignment approved
- December 7, 2010, Third Amendment to the lease approved

AMOUNT AND SOURCE OF FUNDING: N.A., this is a revenue generating Lease

BOARD / COMMISSION ACTION: N.A.

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

DEPARTMENT HEAD: Monica Lombraña
Monica Lombraña, A.A.E.
Director of Aviation

Information copy to appropriate Deputy City Manager

RESOLUTION

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

That the City Manager be authorized to sign an Industrial Site Lease by and between the City of El Paso ("Lessor") and Airport Park-A-Lot El Paso LLC ("Lessee") for the following real property:

> All of Lots 2, 3 and 4, Block 1A, El Paso International Airport Tracts, Replat of Unit 4, City of El Paso, El Paso County, Texas, containing 186,100 square feet of land, more or less, and municipally known and numbered as 6440 Airport Road.

Dated this ____ day of February, 2012.

CITY OF EL PASO

_____
John F. Cook
Mayor

ATTEST:

_____
Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:

_____
Theresa Cullen
Deputy City Attorney

APPROVED AS TO CONTENT:

Monica Lombraña

Monica Lombraña, A.A.E.
Director of Aviation

11-1003-085/93063/Reso

INDUSTRIAL SITE LEASE

El Paso International Airport
El Paso, Texas

AIRPORT PARK-A-LOT EL PASO LLC
LESSEE

FEBRUARY 29, 2012
EFFECTIVE DATE

INDUSTRIAL SITE LEASE
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EXHIBIT "A" – Metes and Bounds of Premises
EXHIBIT "B" – Declaration of Restrictions and Covenants Industrial Zones

INDUSTRIAL SITE LEASE

THIS INDUSTRIAL SITE LEASE ("Lease") is entered into this _____ day of February 2012, by and between the **CITY OF EL PASO** ("Lessor") and **AIRPORT PARK-A-LOT EL PASO LLC** ("Lessee").

WHEREAS, Lessor owns and operates the El Paso International Airport, located in the County of El Paso, State of Texas, ("Airport"), which is managed by the Director of Aviation ("Director");

WHEREAS, effective Dec. 26, 1995, Lessor and Airport Industrial Leasehold entered into an Industrial Site Lease ("Original Lease") for the following real property:

> Lots 3 and 4, and a Portion of Lot 2, Block 1A, El Paso International Airport Tracts, Replat of Unit 4, City of El Paso, El Paso County, Texas, containing 165.650 square feet, of land more or less, commonly known and numbered as 6440 Airport Road, El Paso, Texas;

WHEREAS, on Oct. 31, 2000, Lessor approved a First Amendment to Lease which amended Paragraph 3.11, Valet Automobile Operation Requirements, of the Original Lease;

WHEREAS, on Feb. 13, 2003, Lessor approved a Consent to Assignment and Amendment of Lease which approved an assignment of the Original Lease to LFCW, LLC and revised the description of the leased premises to include an additional 20,413 square feet of land in Lot 2, Block 1A, El Paso International Airport Tracts, Replat of Unit 4, City of El Paso, El Paso County, Texas;

WHEREAS, on December 7, 2010, Lessor approved a Third Amendment to Industrial Site Lease which allow a Valet Automobile Parking Lot to be a permitted use for an additional one-year period,

WHEREAS, LFCW, LLC and Lessee entered into a sales agreement whereby Lessee has agreed to acquire LFCW's valet parking business assets and leasehold improvements subject to Lessee's execution of this Lease,

WHEREAS, LFCW, LLC desires to be released from the rights and responsibilities of the Original Lease, as amended, and Lessee requests that it be allowed to enter into a new lease with Lessor; and

WHEREAS, Lessor deems it advantageous to itself and to its operation of the Airport to lease unto Lessee the parcel of land described herein, together with certain privileges, rights, uses and interests therein, as hereinafter set out.

NOW THEREFORE, for and in consideration of the terms, conditions and covenants of this Lease to be performed by Lessee, all of which Lessee accepts, Lessor hereby leases to Lessee and Lessee hereby takes from Lessor certain real property, and certain attendant privileges, uses and rights, as hereinafter specifically set out.

ARTICLE I - PREMISES AND PRIVILEGES

1.01 Description of Premises Demised. Lessor does hereby demise and lease to Lessee and Lessee does hereby lease from Lessor the following described real property located in El Paso County, Texas:

> All of Lots 2, 3 and 4, Block 1A, El Paso International Airport Tracts, Replat of Unit 4, City of El Paso, El Paso County, Texas, containing 186,100 square feet of land, more or less, and further depicted on **EXHIBIT "A"**, attached hereto and incorporated herein, and municipally known and numbered as 6440 Airport Road ("Premises").

Lessor and Lessee acknowledge that Lessee owns all improvements located on the Premises as of the effective date of this Lease. Lessee agrees that these improvements will be subject to all terms and conditions of this Lease.

1.02 Right of Ingress and Egress. Lessee is entitled to all rights of ingress to and egress from the Premises over and across the public roadways serving the Airport for Lessee, its agents, employees, servants, patrons and invitees, suppliers of service and furnishers of material. Lessor may not change any of the existing entrances to the Premises without the prior written consent of Lessee. The right of ingress and egress to the Premises shall be subject to such ordinances, rules and regulations as now or may hereafter have application at the Airport.

1.03 Right to Construct. Lessee shall have the right and privilege to construct, maintain, and remove improvements upon the Premises subject to the terms, covenants, and conditions contained herein.

1.04 Restriction of Privileges, Uses and Rights. The rights and privileges granted Lessee hereunder are subject and expressly limited to the construction and operation of facilities in accordance with this Lease, including the Declaration of Restrictions and Covenants, Industrial Zones ("Declarations"), which are attached hereto and incorporated herein for all purposes as **EXHIBIT "B"**.

1.05 Conditions of Granting Lease. The granting of this Lease and its acceptance by Lessee is conditioned upon the following covenants:

A. That no functional alteration of the Premises or functional change in the uses of such Premises shall be made without the prior written consent of Lessor.

B. That the right to use the Premises shall be exercised only subject to and in accordance with the laws of the United States of America, the State of Texas; the rules and regulations promulgated by their authority and all applicable rules, regulations and ordinances of Lessor now in force or hereafter prescribed or promulgated by charter authority or by law.

ARTICLE II - OBLIGATIONS OF LESSOR

2.01 Quiet Enjoyment. Lessor agrees that upon Lessee's paying rent and performing all of the covenants, conditions, and agreements set forth in this Lease, Lessee shall and may peaceably and quietly have, hold, and enjoy the Premises. Lessor has no knowledge, nor any reason to believe, that there is any legal impediment to its full right to enter into this Lease and perform its obligations hereunder.

2.02 Condition and Maintenance of Premises "As Is". Lessee accepts the Premises "**AS IS**", with all faults, relying on Lessee's own inspection and judgment and not in reliance on any representations of Lessor. Lessor shall assume no responsibility as to the condition of the Premises and shall not assume responsibility for maintenance, upkeep, or repair necessary to keep the Premises in a safe and serviceable condition.

ARTICLE III - OBLIGATIONS OF LESSEE

3.01 Net Lease. This Lease shall be without cost to Lessor except for Lessor's obligations specifically set for in this Lease. Lessee shall:

A. Keep and maintain the Premises and improvements located thereon in a good state of repair at all times;

B. Pay any and all taxes assessed against the Premises, improvements, Lessee's interest in the Premises and improvements, and all of Lessee's personal property located on the Premises. **In no event shall Lessor be deemed responsible for the payment of any taxes associated with the Premises or this Lease;** and

C. Pay all casualty, bond, and liability insurance premiums required in accordance with the terms of this Lease.

3.02 Condition of Premises. Lessee accepts the Premises in their present condition and agrees that the Premises are suitable for Lessee's business, activities, and operations proposed to be conducted thereon subject to:

A. Lessee's right to construct certain improvements under the terms of this Lease; and

B. Lessor's performance of the obligations imposed on Lessor under this Lease.

3.03 Compliance With Laws. Lessee, at Lessee's expense, agrees that it will construct, operate and maintain improvements on the Premises in accordance with the Declarations and in accordance with all laws, rules, orders, ordinances, directions, regulations and requirements of federal, state, county and municipal authorities, now in force or which may hereafter be in force, including, but not limited to, those which shall impose any duty upon Lessor or Lessee, with respect to the use, occupation or alteration of the Premises and any improvements thereon. By way of example and not in limitation of the foregoing, the execution of this Lease and approval of Lessee's plans by the Director or designee shall not preclude the requirement that Lessee obtain all other approvals necessary for development of Lessee's project such as, but not limited to, building permits and certificates of occupancy.

Lessee, at Lessee's expense, specifically agrees to make or cause to be made all such alterations to the Premises, and any improvements thereon, including, without limiting the generality of the requirements of this sentence, removing such barriers and providing such alternative services, as shall be required by the Americans with Disabilities Act of 1990, as amended, and any other laws, rules, orders, ordinances, directions, regulations and requirements of federal, state, county and municipal authorities, now in force or which may hereafter be in force, which relate to the use or occupation of the Premises and any improvements thereon by disabled persons ("Disabilities Laws").

Lessee shall, at Lessee's expense, comply with all present and hereinafter enacted Environmental Laws, and any amendments thereto, affecting Lessee's use, operation, occupation or alteration of the Premises including any improvements thereon.

A. Definitions.

(1) "Environmental Laws" means any one or all of the following as the same are amended from time to time: the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. Section 9601 et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. Section 6941 et seq.; the Toxic Substances Control Act, 15 U.S.C. Section 2601 et seq.; the Safe Drinking Water Act, 42 U.S.C. Section 300h et seq.; the Clean Water Act, 33 U.S.C. Section 1251 et seq.; the Clean Air Act, 42 U.S.C. Section 7401 et seq.; and the regulations promulgated thereunder and any other laws, regulations and ordinances (whether enacted by the local, state or federal government) now in effect or hereinafter enacted that deal with the regulation or protection of the environment, including the ambient air, ground water, surface water, and land use, including sub-strata land.

(2) "Hazardous material" shall mean all substances, materials and wastes that are, or that become, regulated under or classified as hazardous or toxic under any Environmental Law and all petroleum products, such as gasoline, kerosene, diesel fuel and the like.

(3) "Release" shall mean any releasing, spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, disposing, or dumping into the environment.

B. Compliance.

(1) Lessee shall not cause or permit any Hazardous Material to be used, generated, manufactured, produced, stored, brought upon, or released, on, under or about the Premises, or transported to and from the Premises, by Lessee, its sublessees, agents, employees, contractors, invitees, or a third party in violation of any Environmental Law. **Lessee shall indemnify, defend and hold harmless Lessor, its successors and assigns, its employees, agents and attorneys from and against any and all liability, loss, damage, expense, penalties and legal and investigation fees or costs, arising from or related to any claim or action for injury, liability, breach of warranty or representation, or damage to persons or property arising out of or attributed directly, or indirectly to the operation, conduct or management of Lessee's business on the Premises or its use of the Premises and any and all claims or actions brought by any person, entity or governmental body, alleging or arising in connection with contamination of, or adverse effects on, the environment or violation of any Environmental Law or other statute, ordinance, rule, regulation, judgment or order of any government or judicial entity which are incurred or assessed as a result (whether in part or in whole) of or attributed directly, or indirectly to the operation, conduct or management of Lessee's business on the Premises or its use of the Premises. This obligation includes, but is not limited to, all costs and expenses related to cleaning up the Premises, improvements, land, soil, underground or surface water as required under the law. Lessee's obligations and liabilities under this paragraph shall continue so long as Lessor bears any liability or responsibility under the Environmental Laws for any action that occurred on the Premises or any improvements thereon arising out of or attributed directly, or indirectly to the operation, conduct or management of Lessee's business on the Premises or its use of the Premises. This indemnification of Lessor by Lessee includes, without limitation, costs incurred in connection with any investigation of site conditions or any cleanup, remedial, removal or restoration work required by any federal, state or local governmental agency or political subdivision because of hazardous material located on the Premises or any improvements thereon arising out of or attributed directly, or indirectly to the operation, conduct or management of Lessee's business on the Premises or its use of the Premises, or present in the soil or ground water on, under or about the Premises. The parties agree that Lessor's right to enforce Lessee's promise to**

indemnify is not an adequate remedy at law for Lessee's violation of any provision of this Section. Lessor shall also have all other rights and remedies provided by law or otherwise provided in this Lease.

(2) Without limiting the foregoing, if the presence of any Hazardous Material on, under or about the Premises or in any improvements thereon arising out of or attributed directly, or indirectly to the operation, conduct or management of Lessee's business on the Premises or its use of the Premises or permitted by Lessee results in any contamination of the Premises or any improvements thereon, Lessee shall promptly take all actions at its sole cost and expense as are necessary to return the Premises or any improvements thereon to the condition existing prior to the introduction of any such Hazardous Material to the Premises or in any improvements thereon; provided that Lessor's approval of such actions shall first be obtained, which approval shall not be unreasonably withheld so long as such actions would not potentially have any material adverse long-term effect on the Premises or on any improvements thereon.

(3) Lessee shall, at Lessee's own cost and expense, make all submissions to, provide all information to, and comply with all requirements of the appropriate governmental authority (the "Government") under the Environmental Laws. Should the Government determine that site characterization, site assessment and/or a cleanup plan be prepared or that a cleanup should be undertaken on the Premises or in any improvements thereon, then Lessee shall, at Lessee's own cost and expense, prepare and submit the required plans and financial assurances, and carry out the approved plans. At no cost or expense to Lessor, Lessee shall promptly provide all information requested by Lessor to determine the applicability of the Environmental Laws to the Premises or to respond to any governmental investigation or to respond to any claim of liability by third parties which is related to environmental contamination.

(4) Lessee shall immediately notify Lessor of any of the following: (a) any correspondence or communication from any governmental entity regarding the application of Environmental Laws to the Premises or Lessee's operation on the Premises, and (b) any change in Lessee's operation on the Premises that will change or has the potential to change Lessee's or Lessor's obligations or liabilities under the Environmental Laws.

(5) Lessee shall insert the provisions of this Section 3.03 in any lease agreement or contract by which it grants a right or privilege to any person, firm or corporation under this Lease.

Notwithstanding any other provision in this Lease to the contrary, Lessor shall have the right of "self-help" or similar remedy in order to minimize any damages, expenses, penalties and related fees or costs, arising from or related to a violation of any law on, under or about the Premises.

Lessee's failure or the failure of its agents, employees, contractors, invitees or the failure of a third party to comply with any of the requirements and obligations of this Section shall constitute a material default of this Lease and shall permit Lessor to pursue the remedies as set forth in Section 10.02 hereinbelow, in addition to all other rights and remedies provided by law or otherwise provided in the Lease, to which Lessor may resort cumulatively, or in the alternative.

C. Fuel Storage Tanks. Lessee acknowledges that the Premises presently contain no fuel storage tanks. With the prior written approval of the Director, which approval shall not be unreasonably withheld, Lessee, during the term of this Lease may install, operate, or maintain above ground fuel storage, pumping and dispensing facilities on the Premises. All such tanks, pumps and dispensing machinery shall be owned by Lessee and Lessor shall not have any interest therein. In connection with the installation, operation and maintenance of such storage, pumping and dispensing facilities, Lessee will comply with all governmental regulations, laws, rules and ordinances, all governmental regulations, laws, rules and ordinances, all industry standards, and insurance requirements, all at Lessee's sole cost, expense and risk. Prior to the end of the term of the Lease Lessee will remove all tanks, pumping and dispensing facilities and will perform clean up, testing and backfilling necessary to assure that the land is not contaminated with any gasoline, petroleum product or hazardous materials as may be required by the Environmental Protection Agency (EPA) or the Texas Commission on Environmental Quality (TCEQ). Lessee will, without limiting the generality of the foregoing, test the ground water under and around the tanks, once they are removed, and will deliver copies of the testing report showing no contamination on the site to Lessor. Lessee agrees to indemnify and hold Lessor harmless against any and all costs, expense and liability arising from the location, maintenance or operation of any gasoline or other chemical storage, pumping and dispensing equipment on the Premises during the tenancy provided for under this Lease, including, without limitation, any leaks there from or contamination of the Premises or adjacent property therefrom.

D. Reporting.

(1) At any time that Lessee submits any filing pertaining to its property, operations, or presence on the Airport with any governmental entity (other than the Internal Revenue Service (IRS) by way of example but not in limitation, the Federal Aviation Administration (FAA), EPA or TCEQ, Lessee shall provide duplicate copies of the filing(s) made along with any related documents to Lessor.

(2). Upon expiration, termination or cessation of this Lease for any reason, Lessee shall provide current environmental inspection report on the Premises reasonably acceptable to Lessor. If, pursuant to such report, the Premises shall require environmental remediation under applicable Environmental Law as a result of Lessee's operations at the Premises in violation of any Environmental Law, Lessee shall cause such remediation to be performed in compliance with such applicable Environmental Law to return the Premises to the condition existing prior to the introduction of the Hazardous Material to be remediated, reasonable wear and tear and changes required by applicable law excepted.

3.04 Minimum Improvement Standard. Lessor and Lessee acknowledge that Lessee owns all improvements located on the Premises as of the effective date of this Lease. Lessee agrees that these improvements will be subject to all terms and conditions of this Lease. Lessee covenants and agrees that should it expand, demolish, remove or reconstruct the improvements existing as of the effective date of this Lease, in such a manner as to change the existing footprint of the improvements, it shall comply with the City Code provisions in effect at that that time. Lessor and Lessee acknowledge Section 4.08 B of Exhibit B is not applicable to the premises.

3.05 Lessor's Approval of Plans. Lessor's approval of any plans, specifications and working drawings for Lessee's construction or alterations of improvements shall create no responsibility or liability on the part of Lessor for their completeness, design sufficiency or compliance with all laws, rules and regulations of federal, state, county and municipal authorities. It is specifically understood that the Department of Aviation is only one of numerous departments of the City and that, in addition to obtaining approval of the Director, Lessee may be required to obtain the approval of other City departments.

3.06 Landscaping and Maintenance of Improvements. Lessee shall keep the landscape and the improvements on the Premises in a good state of repair and condition and in a presentable condition comparable in appearance and character to similar improvements on land managed by the Department of Aviation for the benefit of the Lessor. The exterior finish on the improvements shall be repainted and refinished as necessary to maintain the appearance of such improvements. Lessee shall repair all damages to said premises caused by its employees, patrons or its operation thereon; shall maintain and repair all equipment thereon, including any drainage installations, paving, curbs, islands, buildings and improvements; and shall repaint its own buildings as necessary. Lessor encourages the use of low water usage landscaping.

Lessor shall be the sole judge of the quality of maintenance and, upon written notice by Lessor to Lessee, Lessee shall be required to perform whatever reasonable maintenance Lessor deems necessary. If said maintenance is not undertaken by Lessee within ten (10) days after receipt of written notice, Lessor shall have the right to enter on the Premises and perform the necessary maintenance, the cost of which plus ten percent (10%) shall be borne by Lessee.

3.07 Utilities. Lessee shall pay for all costs or charges for utility services furnished to Lessee during the term hereof. Lessee shall have the right to connect to any and all storm and sanitary

sewers and water and utility outlets at its own cost and expense; subject to approval by all appropriate City of El Paso departments. Lessee shall pay for any and all service charges incurred.

3.08 Trash, Garbage and Other Refuse. Lessee is responsible for the adequate sanitary removal, handling and disposal of all trash, garbage and other refuse caused as a result of its use and occupancy of the Premises. Lessee shall provide and use suitable covered commercial type receptacles for all such garbage, trash and other refuse, and will maintain these receptacles, screened from view of adjoining properties or public streets in an attractive, safe, and sanitary manner. Piling of boxes, cartons, barrels or other similar items, in an unsightly or unsafe manner, on or about the Premises, shall not be permitted.

3.09 Permitted Uses. Lessee will not enter into any business activity on the Premises other than those permitted in the Declarations and permitted in this Section. Lessor acknowledges that the permitted uses identified in this paragraph will supersede or otherwise override the sections in the Declarations.

Lessor agrees that an Automobile Parking Lot shall be a permitted use. For purposes herein, Automobile Parking Lot is defined as a parking lot for users of the Airport in which patrons may park vehicles for a fee in a secured, covered location on the Premises and shall be provided with on-call shuttle service to and from the Airport. Lessee's shuttle buses do not have to be stored in a closed building and vehicle loading is not required at the rear of any buildings. However, Lessor agrees no more than twenty percent (20%) of the Automobile Parking Lot can be used for non-users of the Airport. In addition, Lessee may provide car washes and detail service to patrons who park vehicles on the premises. The following services may be offered to patrons who park vehicles on the Premises; however, these services shall be performed off-site and not performed on the Premises: Oil Change Service and Inspection Sticker Service. Lessee, with the prior written consent of the Director may install fuel storage, pumping and dispensing facilities on the Premises pursuant to Paragraph 3.03C, and Lessee acknowledges that the use of any fuel storage, pumping and dispensing facilities installed on the Premises will be restricted by Lessee and will only service Lessee's shuttle vehicles. Additional services may be added upon prior written approval by the Director.

3.10 Automobile Parking Lot Operation Requirements. In the operation of any Automobile Parking Lot, Lessee agrees and warrants that the following requirements will be met. In addition, Lessee is responsible for and shall require that any sublessee or operator comply with all of the following requirements and shall include all of the following requirements as part of any sublease of the Premises:

A. The Automobile Parking Lot shall be open twenty-four (24) hours a day, seven (7) days a week.

B. The Automobile Parking Lot shall provide and continuously maintain the facilities and services on the Premises during the term of the permitted use.

C. Patrons utilizing the Automobile Parking Lot may arrange for these services on line to be provided at the Premises described herein. The pick-up or delivery of any patron's vehicle at or around the Airport Terminal Building is prohibited.

D. At no time shall "El Paso International Airport" be used in the name of any operations, partnerships, or corporations; nor shall any relationship be implied with El Paso International Airport other than that of a Lessee.

E. All shuttle vehicles shall be in good operating order and free from known mechanical defect. For the purposes herein, "Shuttle Vehicles" are defined as vehicles utilized in the transport of patrons of the Automobile Parking Lot to and from the Airport.

F. Shuttle Vehicles shall be kept in a clean, neat, attractive and serviceable condition, without damage, inside and out, with no torn upholstery, and with the air conditioning and heating in working condition. As long as Lessee's shuttle vehicles satisfy the foregoing standards, Lessee shall be entitled, in Lessee's sole discretion, to continue to operate such vehicles regardless of the age thereof. To the extent that Lessor reasonable believes that any shuttle vehicle operated Lessee does not satisfy the foregoing standards, Lessor shall send written notice to Lessee setting forth Lessor's objections, and Lessee shall thereafter have a period of thirty (30) days to address Lessor's concerns. G. Attendants, employees and shuttle vehicle operators shall be properly uniformed or dressed. They shall be clean, courteous, efficient and neat in appearance at all times. Lessee shall not employ or permit the employment of any person or persons in or about the Premises or Airport who shall use improper language or act in a loud, boisterous or otherwise improper manner.

H. All attendants, employees and shuttle vehicle operators must maintain necessary licensing and training to perform their job in a professional, competent, and courteous manner and must obey all federal, state, and local laws and ordinances concerning the operation of motorized vehicles.

I. Attendants, employees, and shuttle vehicle operators shall be closely supervised to insure the maintenance of a high standard of service to patrons and to the public, the performance of such obligation to be determined at the sole discretion of Lessor. Upon an objection from the Director to Lessee about the conduct, demeanor or appearance of its attendants, employees, or shuttle vehicle operators, Lessee shall within a reasonable time remedy the cause of the objection. Nothing in this Lease shall be construed as creating a relationship of employer and employee or principal and agent between the parties.

J. All rates charged by the Automobile Parking Lot shall, at all times, be no less than the lowest rates charged by El Paso International Airport in any of its long-term parking facilities. However, with the prior written consent of the Director, which

consent will not be unreasonably withheld, the Lessee may have promotional events which offer rates less than the lowest rates charged by the El Paso International Airport in its long-term facilities.

All of the above listed requirements shall apply to Lessee or any person, firm, corporation or partnership to which Lessee grants a right or privilege under this Lease. Lessee's failure or the failure of its agents, employees, operators or sublessees to comply with any of the requirements and obligations of this section shall constitute a material default of this Lease and shall permit Lessor to pursue the remedies set forth in Article XI hereinbelow, in addition to all other rights and remedies provided by law or otherwise provided in this Lease, to which Lessor may resort cumulatively, or in the alternative.

3.11 Penalties Assessed by Federal Agencies. Lessee understands and agrees that in the event any federal agency assesses a civil penalty against Lessor or the Airport for any violation, including but not limited to any security violation, as a result of or related to any act or failure to act on the part of Lessee, its agents, employees or independent contractors, Lessee shall reimburse Lessor in the amount of the civil penalty assessed. Failure to reimburse Lessor within thirty (30) calendar days of receipt of written notice shall constitute an event of default hereunder.

3.12 Taxes and Other Charges. Lessee shall pay all taxes and governmental charges of any kind whatsoever that may be assessed against Lessee or Lessor, with respect to the Premises, any improvements, equipment, personal property or inventory thereon or Lessee's use and/or occupancy of the Premises, during the Term of this Lease including any extensions granted thereto. Upon request of Lessor, Lessee will provide written proof satisfactory to Lessor that all taxes and governmental charges of any kind as described herein have been paid in full. Or upon ten (10) days notice and at no cost to Lessor, Lessee will provide any information deemed necessary by the Director to verify that taxes and governmental charges of any kind as described herein have been paid in full.

Lessor is a tax-exempt governmental entity and shall not be responsible for any taxes or assessments arising from Lessee's use of the property or possession of the Premises.

Lessee in good faith may contest any tax or governmental charge, provided that Lessee may not permit such tax or governmental charge to remain unpaid during the period of such contest and any appeal therefrom unless, in the opinion of counsel satisfactory to Lessor, such action will not adversely affect any right or interest of Lessor.

3.13 Governmental Filings. In the event that Lessee submits any filing or response pertaining to its property, operations or presence at the Airport with any governmental entity (other than the Internal Revenue Service), by way of example and not in limitation the FAA, the EPA or the TCEQ or any successor agencies, Lessee shall provide duplicate copies to Lessor of such filing(s) or response(s) made at the time same are made.

ARTICLE IV - TERM OF LEASEHOLD

4.01 Term. This Lease shall be for an initial term of thirty (30) years, commencing on the Effective Date, which is first noted on the title page. ("Initial Term").

4.02 Mutual Option to Extend. In the event that Lessee is not in default of any terms of this Lease, Lessee shall have the option to extend this Lease for two (2) additional terms of five (5) years each. Lessee may exercise the first five (5) year option ("First Option Period") by notifying Lessor in writing at least ninety (90) days prior to the expiration of the Initial Term. In the event Lessee exercises its first option, the Lease shall be extended for five (5) years on the same terms and conditions, except that Ground Rentals shall be adjusted as noted below.

In the event that Lessee is not in default of any terms of this Lease, Lessee may exercise the second five (5) year option ("Second Option Period") by notifying Lessor in writing at least ninety (90) days prior to the expiration of the First Option Period. In the event Lessee exercises its second option, the Lease shall be extended for an additional five (5) years on the same terms and conditions, except that Ground Rentals for this Second Option Period shall be readjusted as noted below.

Lessee's options to extend the Lease shall terminate if Lessee fails to notify Lessor in writing ninety (90) days before the expiration of the Initial Term or any relevant option period. Time is of the essence with regard to the ninety (90) day notice requirement.

Any option exercised, per the Agreement, to extend the Lease at the end of the Initial Term shall be at a rate of eight percent (8%) of the then fair market value of the Leased Premises without regard to any upper limit caps stated in Article IV, Section 4.02 and without regard to the value of any Lessee-owned improvements.

4.03 Holding Over. It is agreed and understood that any holding over by Lessee of the Premises at the expiration or cancellation of this Lease shall operate and be construed as a tenancy from month to month at a Rental equal to one and one-half (1.5) times the Rental in effect at the end of the contracted lease term, and Lessee shall be liable to Lessor for all loss or damage on account of any holding over against Lessor's will after the expiration or cancellation of this Lease, whether such loss or damage may be contemplated at this time or not. No receipt or acceptance of money by Lessor from Lessee after the expiration or cancellation of this Lease or after the service of any notice, after the commencement of any suit, or after final judgment for possession of the Premises, shall reinstate, continue or extend the terms of this Lease, or affect any such notice, demand or suit or imply consent for any action for which Lessor's consent is required or operate as a waiver of any right of the Lessor to retake and resume possession of the Premises.

4.04 National Emergency. In the event the rights and privileges hereunder are suspended by reason of war or other national emergency, the term of this Lease shall be extended by the amount of the period of time of such suspension.

ARTICLE V - RENTAL

5.01 Rental. For the purpose of computing the annual rental to be paid by Lessee to Lessor for the Premises ("Rental"), Lessor and Lessee agree that the Premises comprise **186,100** square feet of land. The Rental for the Premises will be calculated on the basis of **186,100** square feet of land at **$0.5998** per square foot or **$111,622.78** per annum. Therefore, the annual rental for the land shall be **$111,622.78**.

5.02 Commencement of Rental. Payment of Rental by Lessee to Lessor as aforesaid shall commence on the Effective Date of this Lease.

5.03 Readjustment of Rental. For the purpose of computing adjustments to rental payments, Lessor and Lessee agree as follows:

A. Rentals shall be adjusted on each fifth (5th) anniversary of the Effective Date during the Initial Term. Lessor and Lessee agree that percentage increases in the Consumer Price Index for all Urban Consumers (CPI-U) shall govern the Rental readjustment for these anniversary dates. The parties further agree that for the purposes of computing such percentage increase during the Initial Term, the Base Year CPI-U shall be established as that rate in place ninety (90) calendar days prior to the Effective Date of this Lease. Rentals shall be adjusted pursuant to the percentage increase in the CPI-U from the Base Year CPI-U to the rate in place ninety (90) days prior to the applicable date of readjustment (i.e. the fifth (5th) anniversary date of the Effective Date). The Rental readjustment shall be that amount equal to the percentage increase of the Consumer Price Index for all Urban Consumers from the Base Year CPI-U to that CPI-U in effect ninety (90) calendar days prior to the fifth (5th) anniversary of the Effective Date or any option period properly exercised by Lessee.

All readjustments shall be effective as of the fifth (5th) anniversary date, without regard to the date the actual adjustment is made; provided, however, that in no event shall the readjusted Rental be less than the rate in place immediately prior to such readjustment nor more than fifteen percent (15%) more than the rent established at the beginning of the immediately preceding five-year period.

B. Within ninety (90) days prior to the expiration of the initial term and the First Option Period, if exercised, or the Second Option Period, the Rental shall be adjusted to a rate equal to eight percent (8%) of the then fair market value of the Premises, disregarding the value of any Lessee-owned improvements located on the Premises. In no event however, shall this adjusted Rent for the First Option Period or the Second Option Period be less than the Rent established at the beginning of the immediately preceding five (5) year period. The readjustment of Rent shall become effective as of the First Option Period and the Secord Option Period, regardless of the date the actual adjustment is made.

The fair market value of the Premises shall be determined by an appraisal of the Premises; however, if mutually agreeable to Lessor and Lessee, the Director and Lessee may agree upon the fair market value of the Premises established by a recent appraisal of similar property located in the surrounding area which was performed within twelve (12) months of the lease anniversary date in question.

In the event Lessor and Lessee do not so mutually agree, Lessor shall select a qualified appraiser ("First Appraiser") to establish the fair market value of the Premises, disregarding the value of any Lessee-owned improvements located on the Premises. Lessor shall notify Lessee of such selection and, if Lessee is not satisfied with the selection of the First Appraiser, Lessee, within fifteen (15) days after receipt of said notice, shall notify Lessor of Lessee's selection of a qualified second appraiser ("Second Appraiser"). If Lessee does not so select a Second Appraiser, the First Appraiser shall proceed to establish the fair market value of the Premises. If the Second Appraiser is so selected and Lessor is satisfied with such selection, the Second Appraiser shall proceed to determine the fair market value of the Premises.

If Lessor is not satisfied with the selection of the Second Appraiser and Lessor and Lessee cannot mutually agree on the selection of one appraiser, then both the First Appraiser and the Second Appraiser will proceed to independently determine the fair market value of the Premises. If the fair market value determined in the two appraisals differs by less than five percent (5%), then the fair market value of the Premises shall be established by the averaging of the two appraisals. If the fair market value determined by the two appraisals differs by five percent (5%) or more and the Lessor and Lessee cannot mutually agree as to a fair market value, the First Appraiser and the Second Appraiser shall mutually select a third qualified appraiser to determine the fair market value of the Premises. In such event, the fair market value shall be established by averaging the two appraisals that are the closest in fair market value determinations.

In any case, the fees and expenses of any appraisals shall be borne equally by the Lessor and Lessee and the Rent established by the determination of the fair market value shall be effective as of the anniversary date for which the adjustment of the Rent is being determined. Furthermore, any appraiser designated to serve in accordance with the provisions of this Lease shall be an unbiased and disinterested party and shall be qualified to appraise real estate of the type covered by this Lease situated in El Paso County, Texas, and shall have been actively engaged in the appraisal of real estate similar to the Premises and located in El Paso County, Texas for a period of not less than five (5) consecutive years immediately preceding his appointment.

5.04 Time of Payment – Rental. The Rental shall be paid in twelve (12) equal monthly installments. Said monthly Rental payments shall be paid in advance on or before the first day of each and every month during the term of this Lease.

5.05 Security Deposit. Prior to the commencement of this Lease, Lessee shall tender to Lessor an irrevocable letter of credit, or other surety acceptable to the Director ("Security Deposit") in an amount equal to three (3) months of Rental to guarantee the faithful performance of Lessee of its obligations under this Lease and the payment of all Rental due hereunder. Lessee shall be obligated to maintain such Security Deposit in effect until the expiration of eighteen (18) consecutive months from the Effective Date of this Lease during which Lessee commits no Event of Default under Section 11.02 of this Lease. Such Security Deposit shall be in such form as shall be acceptable to Lessor in its reasonable discretion. Within twenty (20) days after expiration of such eighteen (18) month period and if no Event of Default by Lessee has occurred, Lessor shall return the Security Deposit to Lessee. Lessor's rights under this Section shall be in addition to all other rights and remedies provided to Lessor under this Agreement.

5.06 Unpaid Rental, Fees and Charges. Any payment of Rental, additional rental, or other charges or monies accruing under any provisions of this Lease that are not received by Lessor by the twentieth (20th) day of the month in which payment is due, shall bear interest at the rate equal to the maximum allowed by law from the date when the same was due according to the terms of this Lease until paid by Lessee.

5.07 Place of Payment. All payments provided herein shall be paid to Lessor at the following address:

Accounting Division
El Paso International Airport
P.O. Box 971278
El Paso, Texas 79997-1278.

ARTICLE VI - INSURANCE AND INDEMNIFICATION

6.01 Fire and Other Risks Insurance. Lessee, at its sole cost and expense, shall throughout the term of this Lease, keep or cause to be kept all improvements now or hereafter located upon the Premises insured for the mutual benefit of Lessor and Lessee against loss or damage by fire and against loss or damage by other risks embraced by "extended coverage" and against civil commotions, riots, vandalism and malicious mischief, in an amount equal to the actual replacement cost of such improvements, including costs of replacing excavations and foundation, but without deduction for depreciation (hereinafter called "Full Insurable Value"). In the event a dispute arises as to the Full Insurable Value which cannot be resolved by agreement, an appraisal of the Premises and improvements thereon shall be made by an appraiser selected by Lessee and reasonably acceptable to Lessor to determine the Full Insurable Value, as defined in this Section, and the resulting determination shall be conclusive between the parties for the purpose of this Section. Should the appraiser Lessee selects be unsatisfactory to Lessor, the carrier of the

insurance then in force shall be requested to determine the Full Insurable Value as defined in this Section. The expense of this appraisal shall be borne by Lessee.

6.02 Liability Insurance. Lessee, at its sole cost and expense shall, throughout the term of this Lease, provide and keep in force for the benefit of Lessor and Lessee, as their respective interests may appear, comprehensive general liability insurance in an amount not less than Five Hundred Thousand Dollars ($500,000.00) for bodily injury to one person for each occurrence, One Million Dollars ($1,000,000.00) for bodily injuries to more than one person arising out of each occurrence and One Hundred Thousand Dollars ($100,000.00) for property damage arising out of each occurrence, or in amounts equal to the maximum liability for damages for municipalities for claims arising under governmental functions, provided for under the Texas Tort Claims Act, whichever is greater.

6.03 Performance and Payment Bonds. Lessee, at its own cost and expense, shall cause to be made, executed, and delivered to Lessor two (2) separate bonds for any work in excess of $50,000.00, as follows:

A. Prior to the date of commencement of any construction, a contract surety bond in a sum equal to the full amount of the construction contract awarded.

Said bond shall guarantee the faithful performance of necessary construction and completion of improvements in accordance with approved final plans and detailed specifications; and shall guarantee Lessor against any losses and liability, damages, expenses, claims and judgments caused by or resulting from any failure of Lessee to perform completely the work described as herein provided.

B. Prior to the date of commencement of any construction, a payment bond with Lessee's contractor or contractors as principal, in a sum equal to the full amount of the construction contract awarded.

Said bond shall guarantee payment of all wages for labor and services engaged and of all bills for materials, supplies, and equipment used in the performance of said construction contract.

6.04 Authorized Insurance Companies. All such policies of insurance shall be written by insurance companies qualified to do business and be in good standing in Texas and shall be written by companies approved by Lessor, such approval not to be unreasonably withheld. Certificates of insurance shall be delivered to Lessor at least ten (10) days prior to the effective date of the insurance policy for which the certificate is issued. Each such certificate shall contain:

A. A statement of the coverage provided by the policy;

B. A statement certifying the Lessor and its officers, directors, agents, and employees to be listed as an additional insured in the policy;

C. A statement of the period during which the policy is in effect;

D. A statement that the annual premium or the advance deposit premium for such policy has been paid in advance; and

E. An agreement by the insurance company issuing such policy that the policy shall not be canceled or reduced in any amount for any reason whatsoever without at least thirty (30) days' prior written notice to Lessor.

6.05 Indemnification. Lessee agrees to indemnify and hold Lessor and its officers, directors, agents, and employees harmless against any and all claims, demands, damages, costs, and expenses, including investigation expenses and reasonable attorney's fees for the defense of such claims and demands, arising out of or attributed directly, or indirectly to the operation, conduct or management of Lessee's business on the Premises, its use of the Premises, or from any breach on the part of Lessee of any terms of this Lease, or from any act or negligence of Lessee, its agents, contractors, employees, sublessees, concessionaires, or licensees in or about the Premises including claims and damages arising in whole, or in part, from the negligence of Lessor. In case of any action or proceeding brought against Lessor by reason of any such claim, Lessee, upon notice from Lessor, agrees to defend the action or proceeding by counsel acceptable to Lessor.

ARTICLE VII - DESTRUCTION OF IMPROVEMENTS BY FIRE OR OTHER CASUALTY

7.01 Obligations of Lessee. During the term hereof, except as provided in Section 7.03 below, should any improvements constructed by Lessee upon the Premises be damaged or destroyed in whole or in part by fire or other casualty, Lessee shall give prompt notice thereof to Lessor, and Lessee, at its own cost and expense, shall promptly repair, replace and rebuild the same, at least to the same extent as the value and as nearly as practical to the character of the buildings and improvements existing immediately prior to such time. Such repairs, replacements or rebuilding shall be made by Lessee as aforesaid and in accordance with the following terms and conditions:

A. Prior to commencing such work, Lessee shall deliver to Lessor a set of the preliminary construction plans and specifications in accordance with the terms and provisions of the Declarations. In the event the preliminary plans and specifications are disapproved, Lessee will be so notified and the notice shall specify in detail the reasons therefor and the requested modifications or alterations thereto.

B. Upon approval of the preliminary plans and specifications, as herein provided, Lessee shall prepare or cause to be prepared final working plans and specifications in substantial conformity to the preliminary plans and specifications. Upon completion of the final working plans and specifications, Lessee shall submit the same to appropriate governmental agencies for approval. Upon approval by such agencies and the issuance of permits for the commencement of construction, Lessee shall deliver to Lessor one (1) complete set of the final working plans and specifications as approved by the governmental agencies exercising jurisdiction thereover. Changes from the preliminary plans and specifications shall be considered to be within the scope of the preliminary plans and specifications if such changes are reasonably inferable therefrom or if they are made to comply with suggestions, requests or requirements of the governmental agencies exercising jurisdiction.

Prior to the start of any construction, Lessee will need to complete Form FAA-7460 as required by the FAA and submit the form to El Paso International Airport for review and transmittal to the FAA.

C. Prior to commencing any construction, Lessee shall furnish a performance and payment bond in accordance with this Lease and, if requested by Lessor, Builder's Risk Insurance.

D. Upon compliance with the foregoing, and after settlement shall have been made with the insurance company or companies and said proceeds of such insurance policy or policies shall have been paid to Lessee, Lessee shall commence such repair, replacements or rebuilding within a reasonable time and shall continue such work with reasonable diligence until completion.

7.02 Insurance Proceeds. Upon receipt by Lessee of the proceeds of the insurance policy or policies, Lessee shall deposit same in an escrow account to pay for the cost of such repair, replacement or rebuilding. Such proceeds shall be disbursed by Lessee during construction to pay the cost of such work. If the amount of such insurance proceeds is insufficient to pay the costs of the necessary repair, replacement or rebuilding of such damaged improvements, Lessee shall pay any additional sums required, and if the amount of such insurance proceeds is in excess of the costs thereof, the amount of such excess shall be retained by Lessee.

7.03 Cancellation of Lease. Should the improvements on the Premises be damaged or destroyed in whole or in part by fire or other casualty during the last year of the initial term or last year of any renewal term of this Lease, Lessee shall be relieved of the obligation to repair, replace and rebuild the same and shall have the right to cancel this Lease by giving Lessor written notice of such election within thirty (30) days after the date of any such damage or destruction. In such event, this Lease shall terminate as of the date of such destruction and the insurance proceeds received or receivable under any policy of insurance shall be paid to and retained by Lessor, unless Lessor has elected to have the Premises returned to it clear of all improvements in accordance with Section 11.06 hereinbelow, in which case Lessee shall be

entitled to such insurance proceeds. All Rentals payable under this Lease shall be prorated and paid to the date of such cancellation. The receipt of insurance proceeds by Lessor will relieve Lessee from any responsibility to restore the Premises to their former condition.

ARTICLE VIII - CONDEMNATION

8.01 Definitions. The following definitions apply in construing the provisions of this Lease relating to the taking of or damage to all or any part of the Premises, or improvements thereon, or any interest in them by eminent domain or condemnation:

A. "Taking" means the taking or damaging, including severance damage by eminent domain or by condemnation for any public or quasi-public use under any statute. The transfer of title may be either a transfer resulting from the recording of a final order in condemnation or a voluntary transfer or conveyance to the condemning agency or entity under threat of condemnation and avoidance proceedings are pending. The Taking shall be considered to take place the date actual physical possession is taken by the condemning authority.

B. "Total taking" means the taking of the fee title to all of the Premises and improvements thereon.

C. "Substantial taking" means the taking of so much of the Premises or improvements or both that one or more of the following conditions results:

1. The remaining portion of the Premises and improvements thereon after such taking would not be economically and feasibly useable by Lessee;

2. The conduct of Lessee's business on the Premises would be substantially prevented or impaired;

3. The portion of the Premises not so taken cannot be so repaired or reconstructed, taking into consideration the amount of the award available for repair or reconstruction, as to constitute a complete rentable structure capable of producing a proportionately fair and reasonable net annual income after payment of all operation expenses including the Rental and after performance of all covenants and conditions required of Lessee under this Lease.

D. "Partial taking" means the taking of a fee title that is not either a total or substantial taking.

E. "Improvements" includes, but is not limited to, all buildings, structures, fixtures, fences, utility installations, parking facilities and landscaping on the Premises.

F. "Notice of intended taking" means any notice or notification on which a reasonably prudent person would rely and which such person would interpret as expressing an existing intention of taking as distinguished by a mere preliminary inquiry or proposal. It includes, but is not limited to, the service of a condemnation summons and complaint on a party to this Lease. The notice is considered to have been received when a party to this Lease receives from the condemning agency or entity a notice of intent to take in writing containing a description or map reasonably defining the extent of the taking.

G. "Award" means compensation paid for the taking, whether pursuant to judgment, or by agreement, or otherwise.

H. "Date of Taking" means the date that Lessee is required to vacate the Premises pursuant to a final order of condemnation or agreement between the parties hereto.

8.02 Notice of Condemnation. The party receiving any notice of the kind specified below shall promptly give the other party notice of the receipt, contents and date of the notice received:

A. Notice of intended taking;

B. Service of any legal process relating to condemnation of the Premises or improvements; or

C. Notice in connection with any proceedings or negotiations with respect to such a condemnation.

8.03 Rights of Parties During Condemnation Proceeding. Lessor and Lessee shall each have the right to represent its respective interest in each proceeding or negotiation with respect to a taking or intended taking and to make full proof of its claims. No agreement, settlement, sale or transfer to or with the condemning authorities shall be made without the consent of all parties. Each party agrees to execute and deliver to any other party hereto any instrument that may be required to facilitate the provisions of this Lease relating to the condemnation.

8.04 Taking of Leasehold. Upon a total taking, Lessee's obligation to pay Rental and other charges hereunder shall terminate on the Date of Taking, but Lessee's interest in the leasehold shall continue until the taking is completed by deed, contract or final order of condemnation. If the taking is substantial under the aforementioned definition, Lessee may, by notice to Lessor within ninety (90) days after Lessee receives notice of the intended taking, elect to treat the taking as a total taking. If Lessee does not so notify Lessor, the taking shall be deemed a partial taking. Upon a partial taking, this Lease shall remain in full force and effect covering the balance of the Premises not so taken, except that the Rental payable hereunder by Lessee shall be reduced in the same ratio the percentage of the area of the Premises taken bears to the total area of the Premises.

8.05 Total Taking. All of Lessee's obligations under the Lease shall terminate as of the Date of Taking. Upon a total taking or a substantial taking that Lessee elects to treat as a total taking under Section 8.04 above, all sums awarded for any Lessee-owned improvements and the leasehold estate shall be disbursed to Lessee. All sums awarded for the Premises, as unencumbered by any Lessee-owned improvements, but subject to the Lease, shall be disbursed to Lessor.

8.06 Partial Taking. Upon a partial taking or a substantial taking that Lessee elects to treat as a total taking under Section 8.04 above, all awards shall be disbursed as follows:

A. To the cost of restoring the improvements on the Premises; and

B. The balance, if any, to Lessor and Lessee as follows: Lessee shall receive all sums awarded for Lessee-owned improvements and the Leasehold estate. Lessor shall receive all sums awarded for the Premises, as unencumbered by the Lessee-owned improvements but subject to the Lease.

8.07 Obligations of Lessee Under Partial Taking. Promptly after any such partial taking, Lessee, at its expense, shall repair, alter, modify or reconstruct the improvements on the Premises so as to make them reasonably suitable for Lessee's continued occupancy for the uses and purposes for which the Premises are leased. Notwithstanding the foregoing to the contrary, should there be a partial taking in the last year of the initial term or any renewal term, Lessee shall be relieved of the responsibility to so repair or reconstruct the improvements on Premises as aforesaid by notifying Lessor of its intention to that effect; provided however, that all sums awarded for Lessee owned improvements and the Leasehold estate shall be disbursed to Lessor.

8.08 Taking of Temporary Use of Premises and Improvements. Upon any taking for the temporary use of all or any part or parts of the Premises or improvements, or both, for a period equal to the lesser of ninety(90)days or of any estate less than a fee ending on or before the expiration date of the term, neither the term nor the Rental shall be reduced or affected in any way and Lessee shall be entitled to any award for the use or estate taken. If a result of the taking is to necessitate expenditures for changes, repairs, alterations, modifications or reconstruction of the improvements to make them reasonably suitable for Lessee's continued occupancy for the uses and purposes for which the Premises are leased, after the termination of such taking, Lessee shall receive, hold and disburse the award in trust for such work. At the completion of the work and the discharge of the Premises and improvements from all liens or claims arising therefrom, Lessee shall be entitled to any surplus and shall be liable for any deficiency.

If any such taking is for a period extending beyond the expiration date of the term, the taking shall be treated under the foregoing provisions for total, substantial and partial takings.

ARTICLE IX - ENCUMBRANCES

9.01 Encumbrance. As used herein the term "Mortgage" includes a deed of trust and the term "Mortgagee" includes the beneficiary under a deed of trust. Lessee may encumber its leasehold estate and its interest in the improvements constructed and to be constructed on the Premises by the execution and delivery of a Mortgage. The Mortgagee of any such Mortgage may deliver to Lessor a written notice specifying:

A. The amount of the obligation secured by the Mortgage;

B. The date of the maturity or maturities thereof; and

C. The name and mailing address of the Mortgagee.

After receipt of such notice, Lessor shall serve such Mortgagee by certified mail at the latest address furnished by such Mortgagee a copy of every notice of default or demand served by Lessor upon Lessee under the terms and provisions of this Lease so long as such Mortgage is in effect.

9.02 Mortgagee's Rights. Upon receipt of a notice or demand in accordance with Section 9.01 above, Mortgagee shall have ninety (90) days after receipt of such notice within which, at Mortgagee's election, either:

A. Cure the default if it can be cured by the payment or expenditure of money;

B. Perform such other action as may be necessary to cure the default;

C. If the default cannot be cured within ninety (90) days, to commence performance within such ninety (90) day period and thereafter diligently prosecute same to completion, in which event, the default will have been deemed to have been cured; or

D. Institute foreclosure proceedings and prosecute same diligently to conclusion.

9.03 Rights on Foreclosure. In the event of foreclosure by Mortgagee, the purchaser at the foreclosure sale or the person acquiring Lessee's interest in lieu of foreclosure shall succeed to all of Lessee's rights, interests, duties and obligations under this Lease.

ARTICLE X - EXPIRATION, CANCELLATION, ASSIGNMENT AND TRANSFER

10.01 Expiration. This Lease shall expire at the end of the term or any extension thereof.

10.02 Cancellation. Subject to the provisions of Article X above, this Lease shall be subject to cancellation by Lessor in the event Lessee shall:

A. Be in arrears in the payment of the whole or any part of the amounts agreed upon hereunder for a period of ten (10) days after Lessor has notified Lessee in writing that payment was not received when due;

B. File in any court a petition in bankruptcy or insolvency or for the appointment of a receiver or trustee of all or a portion of Lessee's property;

C. Make any general assignment for the benefit of creditors;

D. Abandon the Premises;

E. Be in violation of any local, state, or federal rules or regulations or in default in the performance of any of the covenants and conditions required herein (except Rental payments) to be kept and performed by Lessee, and such violation or default continues for a period of thirty (30) days after receipt of written notice from Lessor to cure such default, unless during such thirty-day period, Lessee shall commence and thereafter diligently perform such action as may be reasonably necessary to cure such default;

F. Be adjudged bankrupt in involuntary bankruptcy proceedings; or

G. Be made a party to any receivership proceeding in which a receiver is appointed for the property or affairs of Lessee where such receivership is not vacated within sixty (60) days after the appointment of such receiver;

In any of the aforesaid events, Lessor may take immediate possession of the Premises including any and all improvements thereon and remove Lessee's effects, forcibly if necessary, without being deemed guilty of trespassing.

Failure of Lessor to declare this Lease canceled upon the default of Lessee for any of the reasons set out shall not operate to bar or destroy the right of Lessor to cancel this Lease by reason of any subsequent violation of the terms of this Lease.

No receipt or acceptance of money by Lessor from Lessee after the expiration or cancellation of this Lease or after the service of any notice, after the commencement of any suit, or after final judgment for possession of the Premises, shall reinstate, continue, or extend the terms of this Lease, or affect any such notice, demand or suit or imply consent for any action for which Lessor's consent is required or operate as a waiver of any right of Lessor to retake and resume possession of the Premises.

10.03 <u>Repossessing and Reletting</u>. In the event of default by Lessee hereunder which shall remain uncured after the required notices have been given pursuant to this Lease, and for such time as provided herein, Lessor may at once thereafter, or at any time subsequent during the existence of such breach or default:

A. Enter into and upon the Premises or any part thereof and repossess the same, expelling therefrom Lessee and all personal property of Lessee (which property may be removed and stored at the cost of and for the account of Lessee), using such force as may be necessary; and

B. Either cancel this Lease by notice or without canceling this Lease, relet the Premises or any part thereof upon such terms and conditions as shall appear advisable to Lessor. If Lessor shall proceed to relet the Premises and the amounts received from reletting the Premises during any month or part thereof be less than the Rental due and owing from Lessee during such month or part thereof under the terms of this Lease, Lessee shall pay such deficiency to Lessor immediately upon calculation thereof, providing Lessor has exercised good faith in the terms and conditions of reletting. Payment of any such deficiencies shall be made monthly within ten (10) days after receipt of notice of deficiency.

10.04 Assignment and Transfer. Lessee shall have the right and privilege to assign or transfer this Lease subject to the prior written approval of Lessor; provided, however, that Lessor's approval shall not be required in the event of an assignment of this Lease by Lessee to the first leasehold Mortgagee.

Any person or entity to which this Lease is assigned to pursuant to the Bankruptcy Code, ll U.S.C. 101 et seq., shall be deemed without further act or deed to have assumed all the obligations arising under this Lease on or after the date of such assignment. Any such assignee shall, upon demand, execute and deliver to Lessor an instrument confirming such assumption.

10.05 Subleasing. Lessee shall have the right to sublease all or any part of the Premises hereunder for the same purposes permitted under the terms and provisions of this Lease, **including but not limited to the insurance and indemnity requirements**. Any such sublease shall be subject to the same conditions, obligations and terms as set forth herein and Lessee shall be responsible for the observance by its sublessees of the terms and covenants contained in this Lease. Lessee shall promptly report to Lessor any subleases of the Premises, or any improvements thereon and, upon request of Lessor, Lessee shall furnish Lessor with a copy of the Sublease Agreement.

10.06 Rights Upon Expiration. Upon the expiration, termination or cessation of this Lease for any reason ("expiration"), Lessee, at its own cost and expense, shall be responsible for the removal of all improvements from the Premises. In furtherance of the same, and within one hundred twenty (120) days prior to the expiration of this Lease, Lessee shall cause to be made, executed, and delivered to Lessor an instrument to guarantee the removal of all improvements from the Premises. Such instrument may be in the form of a performance bond, letter of credit or such other instrument that is acceptable to Director and shall be in place until removal of all improvements.

The removal of all improvements, including the submittal of an environmental assessment and any required remediation of the Premises, as described below, shall be completed within one hundred eighty (180) days from the expiration of this Lease.

No later than thirty (30) days after the complete removal of improvements, Lessee, at its own cost and expense, shall submit to Lessor a written copy of a current environmental site assessment of the Premises. The environmental assessment must be acceptable to Lessor; and if, in the sole opinion of Lessor, the Premises shall require environmental remediation, Lessee shall perform any work as is necessary to cause the Premises to be in compliance with applicable Environmental Laws or to return the Premises into a condition reasonably equivalent to the condition of the Premises as of the Effective Date of the Lease, reasonable wear and tear excepted.

Any occupancy by Lessee for the purposes of removing the improvements, completing the environmental assessment and any required remediation of the Premises shall be subject to the rental due hereunder and provided further that Lessee shall continue to be bound by the terms and conditions of this Lease. Lessee and Lessor agree that this continued tenancy will not be continued as an extension or renewal of the lease term for other than the aforementioned one hundred eighty (180) days.

If Lessee fails to provide the environmental assessment and any required remediation of the Premises, Lessor may provide at Lessee's expense.

Lessor may, at its option, take title to the improvements in lieu of removal by or for Lessee. Lessee may request Lessor to make such election at least one hundred eighty (180) but not more than three hundred sixty (360) days before the beginning of the last year of this Lease, Option Period or any extension or renewal thereof. If Lessor exercises its option to take title to the improvements, Lessee will not be required to deliver to Lessor an instrument to guarantee the removal of all improvements from the Premises.

10.07 Landlord's Lien. It is expressly agreed that in the event of default in the payment of Rental or any other sum due from Lessee to Lessor under the terms of this Lease and if any mortgagee does not exercise its rights under this Lease, Lessor shall have a lien upon all goods, chattels, personal property or equipment, save and except delivery vehicles or rolling stock belonging to Lessee which are placed in, or become a part of, the Premises, as security for Rental due and to become due for the remainder of the Lease term, which lien shall not be in lieu of or in any way affect the statutory landlord's lien given by law, but shall be in addition to that lien, and Lessee grants to Lessor a security interest in all of Lessee's personal property placed in or on the Premises for purposes of this contractual lien. Provided, however, that the terms of this provision shall have effect only to the extent they are not inconsistent with the rules and regulations of the Interstate Commerce Commission and any other laws pertaining thereto and the Railroad Commission of the State of Texas. Lessor agrees that Lessor will not levy a landlord's lien against any delivery vehicle or rolling stock or any of the goods or personal property of third parties in the possession of Lessee, any sublessee or any assignee of Lessee. In the event Lessor exercises the option to terminate the leasehold as provided herein, Lessor, after

providing reasonable notice to Lessee of its intent to take possession and giving an opportunity to cure the default, may take possession of all of Lessee's property on the Premises and sell it at public or private sale after giving Lessee reasonable notice of time and place of any public sale or of the time after that any private sale is to be made, for cash or credit, for such prices and terms as Lessor deems best. The proceeds of the sale shall be applied first to the necessary and proper expense of removing, storing and selling such property, then to the payment of any Rental due or to become due under this Lease, with the balance, if any, to be paid to Lessee.

ARTICLE XI - GENERAL PROVISIONS

11.01 Continuity of Deed Restrictions and Covenants. This Lease agreement is subject to the terms, covenants and conditions contained in the Declarations. Lessor reserves the right to revise the standards set forth in the Declarations; provided, however, that such revisions will not, in Lessor's reasonable opinion, cause a substantial reduction in the value of Lessee's leasehold interest. Lessor's right to revise the restrictions and covenants contained in the Declarations includes but is not limited to, the right to revise said document because of the development of new concepts or improved construction and architectural techniques.

11.02 Right of Flight. Lessor reserves unto itself, its successors and assigns, for the use and benefit of the public a right of flight for the passage of aircraft in the airspace above the surface of the Premises, together with the right to cause in said airspace such noise as may be inherent in the operation of aircraft, now known or hereafter used, for navigation of or flight in the said airspace, and for the use of said airspace for landing on, taking off from or operation on the Airport.

Lessor reserves to itself, its successors and assigns, for the use and benefit of the public, a continuing right and easement over the Premises to take any action it deems necessary to prevent the construction, erection, alteration or growth of any structure, tree or other object in the vicinity of the runways at the Airport which would constitute an obstruction to air navigation according to the criteria or standards prescribed in Subpart C of Part 77 of the Federal Aviation Regulations.

Lessor reserves for itself, its successors and assigns the right to prevent any use of the Premises which would interfere with aircraft landing on or taking off from the Airport and the right to prevent any other use of the Premises which would constitute an airport hazard.

11.03 Time is of the Essence. Time is and shall be deemed of the essence in respect to the performance of each provision of this Lease.

11.04 Notices. All notices provided to be given under this Lease shall be given by certified or registered mail, return receipt requested, postage fully prepaid, addressed to the proper party at the following addresses:

LESSOR: City Clerk
City of El Paso
2 Civic Center Plaza
El Paso, Texas 79999

COPY TO: Director of Aviation
El Paso International Airport
6701 Convair Rd.
El Paso, Texas 79925-1091

LESSEE: Airport Park-A-Lot El Paso LLC
4011 Commerce Street
Dallas, Texas 75226
Attn: Fred Baker and Eric Ward

Any notice so given shall be deemed properly delivered, given, served, or received on the date shown for delivery or rejection on the return receipt. Any party may change the address to which notices shall thereafter be given upon five (5) days prior written notice to all other parties in the manner set forth in this Section.

11.05 Attorney's Fees. If either party brings any action or proceedings to enforce, protect or establish any right or remedy under the terms and conditions of this Lease, the prevailing party shall be entitled to recover reasonable attorney's fees, as determined by a court of competent jurisdiction, in addition to any other relief awarded.

11.06 Agreement Made in Texas. The laws of the State of Texas shall govern the validity, interpretation, performance and enforcement of this Lease. Venue shall be in the courts in El Paso County, Texas.

11.07 Nondiscrimination Covenant. Lessee, for itself, its heirs, personal representatives, successors in interest and assigns, as part of the consideration hereof, does hereby covenant and agree as follows:

A. That in the event facilities are constructed, maintained, or otherwise operated on the Premises for the purpose for which DOT program or activity is extended or for another purpose involving the provision of similar services or benefits, Lessee shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation and as said Regulations may be amended.

B. That no person on the grounds of race, creed, color, sex, age, disability or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of the Premises.

C. That in the construction of any improvements on, over, or under the Premises and the furnishing of services thereon, no person on the grounds of race, creed, color, sex, age, disability or national origin shall be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination.

D. That Lessee shall use the Premises in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A. Part 21, Nondiscrimination in federally-assisted programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulation may be amended. Lessee shall also comply with the applicable provisions of Section 504 of the Rehabilitation Act of 1973 (P.L. 93-112) and 49 CFR Part 27.

E. Economic Discrimination. To the extent that, under this Lease, Lessee furnishes goods or services to the public at the Airport, Lessee agrees that it shall:

1. Furnish each and every good and service on a fair, reasonable, and not unjustly discriminatory basis to all users of the Airport; and

2. Charge fair, reasonable and not unjustly discriminatory prices for each unit or service, provided that Lessee may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers as otherwise permitted under the law.

F. That, in the event of breach of any of the above nondiscrimination covenants, Lessor shall have the right to terminate this Lease and re-enter and repossess the Premises and the improvements thereon, and hold the same as if said Lease had never been made or issued.

11.08 Affirmative Action. Lessee assures that it will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, and any amendments thereto, and any other federal statutes or regulations applicable to the receipt of federal assistance from the Department of Transportation by local governments for Airport use, or otherwise applicable to persons leasing premises from Lessor, to insure that no person shall, on the grounds of race, color, sex, age, disability or national origin be excluded from participating in or receiving the services or benefits of any program of activity covered by this Subpart. Lessee assures that it will require that its covered sub-organizations (sublessees) provide assurances to Lessor, as set forth herein, that they similarly will undertake affirmative action programs, and that they will require assurance from their sub-organizations (sublessees) to the same effect.

11.09 Cumulative Rights and Remedies. All rights and remedies of Lessor here enumerated shall be cumulative and none shall exclude any other right or remedy allowed by law. Likewise, the exercise by Lessor of any remedy provided for herein or allowed by law shall not be to the exclusion of any other remedy.

11.10 Interpretation. Lessor and Lessee agree that this Lease has been freely negotiated by both parties and that in any controversy, dispute, or contest over the meaning, interpretation, validity, or enforceability of this Lease or any of its terms or conclusion, there shall be no inference, presumption, or conclusion drawn whatsoever against other party by virtue of that party having drafted this Lease or any portion thereof.

Words of gender used in this Lease shall be held and construed to include any other gender, and words in the singular shall be held to include the plural and vice versa unless the context otherwise requires.

11.11 Agreement Made in Writing. This Lease contains all of the agreements and conditions made between the parties hereto and may not be modified orally or in any manner other than by agreement in writing signed by the parties hereto or their respective successors in interest.

11.12 Paragraph Headings. The Table of Contents of this Lease and the captions of the various articles and sections of this Lease are for convenience and ease of reference only, and do not define, limit, augment or describe the scope, context or intent of this Lease or any part or parts of this Lease.

11.13 Severability. If any provision of this Lease is found by a court of competent jurisdiction to be illegal, invalid, or unenforceable, the remainder of this Lease will not be affected, and in lieu of each provision which is found to be illegal, invalid, or unenforceable, there will be added as part of this Lease a provision as similar to such illegal, invalid, or unenforceable provision as may be possible and be legal, valid, and enforceable.

11.14 Successors and Assigns. All of the terms, provisions, covenants and conditions of this Lease shall inure to the benefit of and be binding upon Lessor and Lessee and their successors, assigns, legal representatives, heirs, executors and administrators.

11.15 Taxes and Other Charges. Lessee shall pay any and all taxes and governmental charges of any kind whatsoever that may be lawfully assessed against Lessee or Lessor, with respect to the Premises, any improvements, equipment, personal property or inventory thereon or Lessee's use and/or occupancy of the Premises, during the term of this Lease including any extensions or option periods granted thereto.

Lessee in good faith may contest any tax or governmental charge; provided that Lessee may not permit such tax or governmental charge to remain unpaid during the period of such contest and any appeal therefrom. Upon ten (10) days notice from the Director and no cost to Lessor, Lessee shall provide written proof satisfactory to Lessor that all taxes and governmental charges of any kind have been paid.

11.16 Waiver of Warranty of Suitability. LESSOR DISCLAIMS ANY WARRANTY OF SUITABILITY THAT MAY OTHERWISE HAVE ARISEN BY OPERATION OF LAW. LESSOR DOES NOT WARRANT THAT: (1) THERE ARE NO LATENT DEFECTS IN THE

FACILITIES THAT ARE VITAL TO LESSEE'S USING THE PREMISES FOR THEIR INTENDED COMMERCIAL PURPOSE; AND (2) THE ESSENTIAL FACILITIES WILL REMAIN IN SUITABLE CONDITIONS. LESSEE LEASES THE PREMISES "AS IS", WHETHER SUITABLE OR NOT, AND WAIVES THE IMPLIED WARRANTY OF SUITABILITY.

11.17 Survival of Certain Provisions. All provisions of this Lease which expressly or impliedly contemplate or require performance after the cessation, expiration, cancellation, or termination of this Lease hereunder shall survive such cessation, expiration or termination of this Lease, including without limitation, Paragraphs 3.03 and 6.05.

11.18 Restrictions and Reservations. This Lease is subject to all rights-of-way, easements, dedications, restrictions, reservations and other encumbrances of record and running with the land. Lessor reserves the right to grant any future rights-of-way, easements, dedications, restrictions, reservations, or encumbrances and Lessee consents to and will diligently execute all documentation necessary to complete any future rights-of-way, easements, dedications, restrictions, reservations, or encumbrances, so long as such grants do not adversely affect Lessee's use of the Premises.

Lessor reserves for itself and any authorized agent to, at any reasonable time and without notice, enter upon and inspect the Premises for all legal purposes, including without limitation the purpose of ascertaining whether the maintenance of such parcel, and the maintenance, construction, or alteration of structures thereon are in compliance with all the Environmental and Disabilities Laws and for the purpose of showing the Premises; Lessor shall not be deemed to have committed a trespass or other wrongful act by reason of such entry or inspection.

11.19 Subordination of Lease. All rights granted in this Lease shall be subordinate to the rights in any deed from the United States to the City of El Paso. This Lease shall further be subordinate to the provisions of any existing or future agreements between Lessor and the United States relative to the operation and maintenance of the Airport, the execution of which has been or may be required as a condition precedent to the expenditure of federal funds for the development of the Airport. Should the effect of such agreement with the United States Government be to substantially destroy the commercial value of the Premises, Lessee may cancel this Lease in its entirety. Should Lessee cancel its lease pursuant to this paragraph, it can pursue any remedies available to it under Section VIII of this Lease, if applicable.

11.20 Authorization To Enter Lease. Lessee warrants to Lessor that Lessee is duly authorized to execute and has full right to enter into this Lease, is authorized to do business in the State of Texas and that this Lease is fully binding upon Lessee in accordance with its terms. Upon Lessor's request, Lessee will provide evidence satisfactory to Lessor confirming these representations.

11.21 Effective Date. Regardless of the date signed, this Lease shall be effective as of the date first noted in the Title Page.

[SIGNATURES BEGIN ON THE FOLLOWING PAGE]

APPROVED this _____ day of February 2012.

LESSOR: CITY OF EL PASO

_____
Joyce A. Wilson
City Manager

APPROVED AS TO FORM:

_____
Theresa Cullen
Deputy City Attorney

APPROVED AS TO CONTENT:

Monica Lombraña

Monica Lombraña, A.A.E.
Director of Aviation

ACKNOWLEDGMENT

THE STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on this ___ day of _____ 2012, by **Joyce A. Wilson** as **City Manager** of the **City of El Paso** (Lessor).

_____
Notary Public, State of Texas

My Commission Expires:

_____

(SIGNATURES CONTINUE ON THE FOLLOWING PAGE)

(FB)

LESSEE: AIRPORT PARK-A-LOT LLC EL PASO

By: Fred Baker
Printed Name: FRED BAKER
Title: Manager

ACKNOWLEDGMENT

THE STATE OF Texas)
)
COUNTY OF Dallas)

This instrument was acknowledged before me on this 17 day of February 2012, by Fred Baker as Manager of Airport Park-A-Lot, LLC (Lessee).

EL PASO (FB)

JACQUELINE BAKER
Notary Public
STATE OF TEXAS
My Comm. Exp. Nov. 30, 2014

Jacqueline Baker
Notary Public, State of Texas

My Commission Expires:
11/30/14

BOUNDARY IMPROVEMENT SURVEY

BEING ALL OF LOTS 2, 3, & 4, BLOCK 1-A,
EL PASO INTERNATIONAL AIRPORT TRACTS REPLAT OF UNIT 4,
CITY OF EL PASO, EL PASO COUNTY, TEXAS, ACCORDING TO THE
PLAT THEREOF FILED IN VOLUME 28, PAGE 47,
EL PASO COUNTY PLAT RECORDS

TOTAL CONTAINING: 4.272 ACRES

SCALE 1"=60' JUNE 21, 2011

EXHIBIT A

NOTES:

1. BEARING BASIS: U.S. STATE PLANE COORDINATE SYSTEM, TEXAS CENTRAL ZONE, NAD 1983 (2011). AS DERIVED USING GPS METHODS AND RTK NETWORK ESTABLISHED BY SOUTHERN DATA, EL PASO ISLAND. ALL DISTANCES EXPRESSED IN U.S. SURVEY FEET SCALED TO SURFACE.

   ROTATION OF 20°33'57" EAST FROM RECORD PLAT OF EL PASO INTERNATIONAL AIRPORT TRACTS, REPLAT OF UNIT 4, VOLUME 28, PAGE 47 RECORDED WITH THE EL PASO COUNTY PLAT RECORDS, AS LOCATED BY FOUND CONTROL MONUMENTS SHOWN HEREON.

2. ACCORDING TO THE FEDERAL EMERGENCY MANAGEMENT AGENCY FLOOD INSURANCE RATE MAP COMMUNITY PANEL NO 480214-0005G, DATED OCTOBER 15, 1982, THIS PROPERTY IS IN FLOOD HAZARD ZONE C "AREAS OF MINIMAL FLOODING".

3. UNDER GROUND UTILITIES ARE APPROXIMATE AS PER RECORD INFORMATION AND FIELD EVIDENCE.

4. REFERENCE NORTH AMERICAN TITLE INSURANCE COMPANY FOR TITLE INSURANCE OF NO. 11187-JC, DATED FEBRUARY 8, 2011. SCHEDULE B EXCEPTIONS FROM COVERAGE ARE AS FOLLOWS:

10F. EASEMENT FOR OVERHANG OF SERVICE WIRES FOR POLE TYPE UTILITIES AND BURIED SERVICE WIRES, CONDUITS AND PIPES FOR UNDERGROUND UTILITIES, MARKED AND STAKED FOR SERVICE OR CONSTRUCTION OF SAME, AS SHOWN ON MAP RECORDED IN VOLUME 28, PAGE 47, PLAT RECORDS OF EL PASO COUNTY, TEXAS (AS SHOWN).

10G. PUBLIC UNDERGROUND ELECTRICAL UTILITY EASEMENT DATED MARCH 11,1985, GRANTED BY THE CITY OF EL PASO, RECORDED IN VOLUME 1942, PAGE 998, REAL PROPERTY RECORDS, EL PASO COUNTY, TEXAS (AS SHOWN).

10H. TERMS, CONDITIONS, COVENANTS AND RESTRICTIONS, INCLUDING BUT NOT LIMITED TO RESERVATION OF PERMANENT MATERIALS TO THE UNITED STATES OF AMERICA, TOGETHER WITH THE RIGHTS TO ENTER UPON LAND AND REMOVE THE SAME, AS SET OUT IN DEED WITHOUT WARRANTY, DATED MARCH 24,1948, FROM THE UNITED STATES OF AMERICA, TO THE CITY OF EL PASO, RECORDED IN VOLUME 903, PAGE 563, REAL PROPERTY RECORDS, EL PASO COUNTY, TEXAS (NO PLOTTABLE EASEMENTS).

10I. TERMS, CONDITIONS, PROVISIONS, COVENANTS AND RESTRICTIONS, AS SET OUT IN THAT CERTAIN DECLARATION OF RESTRICTIONS AND COVENANTS INDUSTRIAL ZONES, BLOCKS 1-A, 1-B, 1-C, 2-A, 2-B, 2-C, 3-A,3-B,4,10,11,12,13,14,15,16 AND 18, EL PASO INTERNATIONAL AIRPORT, EL PASO, TEXAS, FILED FOR RECORD ON JULY 13,1965, RECORDED IN VOLUME 1670, PAGE 1189, REAL PROPERTY RECORDS, EL PASO COUNTY, TEXAS (NO PLOTTABLE EASEMENTS).

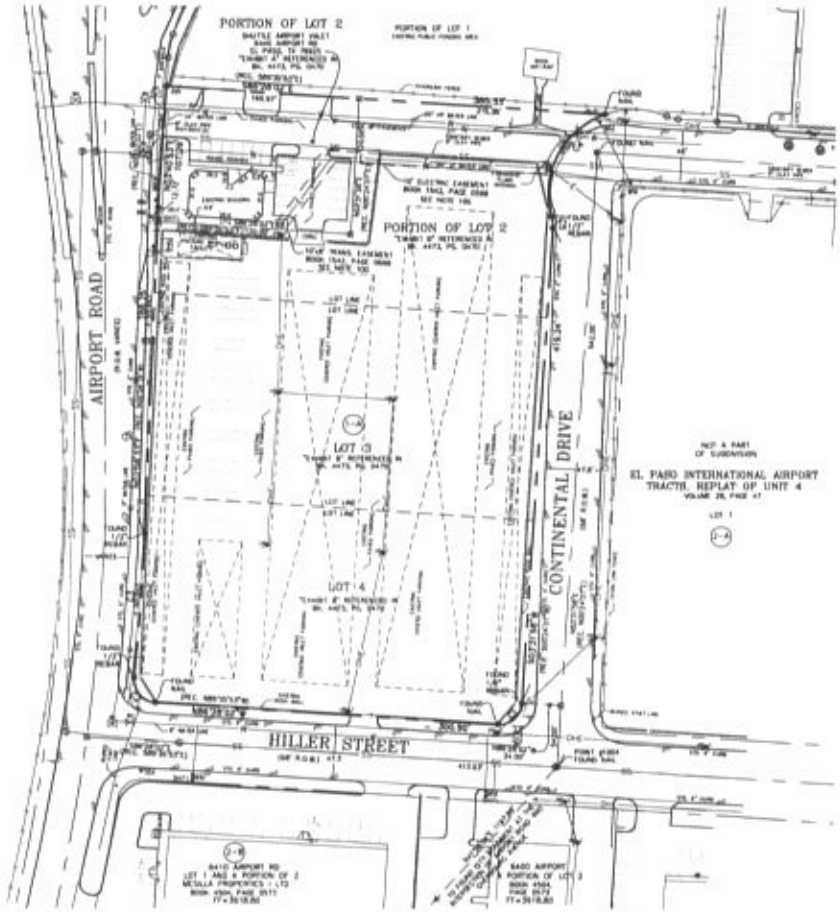
10J. TERMS, CONDITIONS, PROVISIONS, COVENANTS AND RESTRICTIONS, AS SET OUT IN THAT CERTAIN UNRECORDED LEASE DATED JULY 26,1974, BY AND BETWEEN THE CITY OF EL PASO, AS LESSOR AND ROBERT F. HOWSWORTH AND JAMES W. SHELTON, AS AFFECTED BY THAT CERTAIN UNRECORDED AMENDMENT DATED NOVEMBER 24,1976, THAT CERTAIN UNRECORDED AMENDMENT DATED DECEMBER 20,1977, AS RECITED IN AND AS FURTHER AFFECTED BY THAT CERTAIN THIRD AMENDMENT TO LEASE DATED MAY 15,1980, RECORDED IN VOLUME 2636, PAGE 2168, REAL PROPERTY RECORDS, EL PASO COUNTY, TEXAS, AS AFFECTED BY THAT CERTAIN FOURTH AMENDMENT TO LEASE AGREEMENT DATED FEBRUARY 6,1986, RECORDED IN VOLUME 3016, PAGE 960, REAL PROPERTY RECORDS OF EL PASO COUNTY, TEXAS, AS AFFECTED BY THAT CERTAIN CONSENT TO ASSIGNMENT AND AMENDMENT OF LEASE DATED FEBRUARY 13,2003, EXECUTED BY AND BETWEEN THE CITY OF EL PASO, AS LESSOR, AIRPORT INDUSTRIAL LEASEHOLD, AS ASSIGNOR AND UTOR, LLC, AS ASSIGNEE RECORDED IN VOLUME 4475, PAGE 498, REAL PROPERTY RECORDS, EL PASO COUNTY, TEXAS (NO PLOTTABLE EASEMENTS).

10K. TERMS, CONDITIONS, PROVISIONS, COVENANTS AND RESTRICTIONS, AS SET OUT IN THAT CERTAIN UNRECORDED INDUSTRIAL SITE LEASE AGREEMENT DATED DECEMBER 20,1963, BY AND BETWEEN THE CITY OF EL PASO, AS LESSOR AND AIRPORT INDUSTRIAL LEASEHOLD, A TEXAS JOINT VENTURE, AS LESSEE, REFERENCE TO WHICH IS MADE IN THAT CERTAIN MEMORANDUM OF LEASE DATED FEBRUARY 15,1966, RECORDED IN VOLUME 3016, PAGE 453, REAL PROPERTY RECORDS OF EL PASO COUNTY, TEXAS, AS AFFECTED BY THAT CERTAIN CONSENT TO ASSIGNMENT AND AMENDMENT OF LEASE DATED FEBRUARY 13,2003, EXECUTED BY AND BETWEEN THE CITY OF EL PASO, AS LESSOR, AIRPORT INDUSTRIAL LEASEHOLD, AS ASSIGNOR AND UTOR, LLC AS ASSIGNEE, RECORDED IN VOLUME 4475, PAGE 498, REAL PROPERTY RECORDS, EL PASO COUNTY, TEXAS (NO PLOTTABLE EASEMENTS).

10L. TERMS, CONDITIONS, PROVISIONS, COVENANTS AND RESTRICTIONS, AS SET OUT IN THAT CERTAIN UNRECORDED SUBLEASE DATED JANUARY 7,1966, BY AND BETWEEN AIRPORT INDUSTRIAL LEASEHOLD, A TEXAS JOINT VENTURE, AS SUBLESSOR AND SHELTER VALET PARKING, L.P., A TEXAS LIMITED PARTNERSHIP, AS SUBLESSEE, REFERENCE TO WHICH IS MADE IN THAT CERTAIN MEMORANDUM OF SUBLEASE DATED FEBRUARY 15,1966, RECORDED IN VOLUME 3016, PAGE 457, REAL PROPERTY RECORDS, EL PASO COUNTY, TEXAS (NO PLOTTABLE EASEMENTS).

10M. SUB-LEASEHOLD DEED OF TRUST DATED JUNE 16,1981, RECORDED IN VOLUME 2416, PAGE 1051, REAL PROPERTY RECORDS, EL PASO COUNTY, TEXAS, FROM SHELTER VALET PARKING, L.P., TO JOHN B. BELISH, JR., TRUSTEE FOR BANKWOOD NATIONAL BANK, SECURING PAYMENT OF ONE NOTE OF EVEN DATE THEREWITH IN THE PRINCIPAL AMOUNT OF $400,000.00, SIGNED BY THE GRANTOR AND PAYABLE TO THE ORDER OF SAID BENEFICIARY AS HEREIN FULLY SHOWN, CONTAINING THE USUAL ATTORNEY'S FEE AND MATURITY CLAUSES, ADDITIONALLY SECURED BY AND ASSIGNMENT OF LESSEE'S INTEREST IN LEASES, SUBLEASES, RENTS AND SECURITY AGREEMENT DATED JUNE 16,1981 FROM SAID FOR VALET PARKING, L.P., TO BANKWOOD NATIONAL BANK, RECORDED IN VOLUME 2416, PAGE 2084, REAL PROPERTY RECORDS, EL PASO COUNTY, TEXAS, SAID NOTE AND LIEN AS AFFECTED BY, THAT CERTAIN EXTENSION OF REAL ESTATE NOTE AND LIEN DATED JULY 16,2003, BY AND BETWEEN SHELTER VALET PARKING, L.P., AIRPORT INDUSTRIAL LEASEHOLD AND STATE NATIONAL BANK F.K.A.F. BANKWOOD NATIONAL BANK, RECORDED IN VOLUME 4663, PAGE 1116, REAL PROPERTY RECORDS, EL PASO COUNTY, TEXAS; THAT CERTAIN MODIFICATION AND EXTENSION AGREEMENT DATED MAY 1,2003, BY AND BETWEEN STATE NATIONAL BANK AND SHELTER VALET PARKING, L.P., RECORDED IN VOLUME 4663, PAGE 1121, REAL PROPERTY RECORDS, EL PASO COUNTY, TEXAS; TO ALL OF WHICH AND ITS RECORD REFERENCES IS HERE MADE FOR FULL PARTICULARS (NO PLOTTABLE EASEMENTS).

10N. SUB-LEASEHOLD DEED OF TRUST DATED MAY 7,2003, RECORDED IN VOLUME 4663, PAGE 70, REAL PROPERTY RECORDS, EL PASO COUNTY, TEXAS, FROM SHELTER VALET PARKING, L.P., TO JOHN B. BELISH, JR., TRUSTEE FOR STATE NATIONAL BANK, SECURING THAT PAYMENT OF ONE NOTE OF EVEN DATE THEREWITH IN THE PRINCIPAL SUM OF $900,000.00, SIGNED BY THE GRANTOR AND PAYABLE TO THE ORDER OF SAID BENEFICIARY AS HEREIN FULLY SHOWN, CONTAINING THE USUAL ATTORNEY'S FEES AND MATURITY CLAUSES, AS AFFECTED BY THAT CERTAIN MODIFICATION AND EXTENSION AGREEMENT DATED MAY 7,2003, BY AND BETWEEN STATE NATIONAL BANK AND SHELTER VALET PARKING, L.P., RECORDED IN VOLUME 4663, PAGE 80, REAL PROPERTY RECORDS, EL PASO COUNTY, TEXAS; TO ALL OF WHICH AND ITS RECORD REFERENCE IS HERE MADE FOR FULL PARTICULARS (NO PLOTTABLE EASEMENTS).



SYMBOL LEGEND

	FOUND CONTROL POINT
	FOUND CITY MONUMENT
	SET 1/2" REBAR WITH CAP
	CALCULATED POINT (NOT SET)
	SANITARY SEWER MANHOLE
	WATER VALVE
	FIRE HYDRANT
	ELECTRIC TRANSFORMER BOX
	ELECTRIC PULL BOX
	POWER POLE
	LIGHT POLE
	GUY WIRE
	TRAFFIC SIGN
	NO PARKING SIGN
	CABLE BOX
	S.B.C. MANHOLE
	CLEAN OUT
	= CHAIN LINK FENCE
	= GAS LINE
	= OVER HEAD ELECTRIC
	= UNDERGROUND ELECTRIC
	= TELECOMMUNICATIONS LINE
	= WATER LINE
	= SANITARY SEWER LINE

COORDINATE VALUES ARE TEXAS STATE PLANE, CENTRAL ZONE, NORTH AMERICAN DATUM OF 1983. ALL VALUES SHOWN ARE REPRESENTED IN U.S. SURVEY FEET.
COMBINED SCALE FACTOR: 0.9999782842.
CONVERGENCE ANGLE: -0°07'34"

POINT	NORTHING	EASTING	ELEV.	DESCRIPTION
1004	10,647,487.87	411,714.83	3918.84	FOUND NAIL AT THE INTERSECTION OF HILLER ST AND CONTINENTAL DR.

CURVE TABLE

CURVE	RADIUS	LENGTH	TANGENT	CHORD	BEARING	DELTA
C1	30.00	47.12	30.00	42.42	S44°27'34"W	90°00'00"
C2	30.00	47.12	30.00	42.42	N45°32'26"W	90°00'00"
C3	1,873.61	175.80	87.92	175.73	N00°03'26"W	5°22'49"
C4	74.00	111.06	68.46	101.24	S47°56'31"W	86°16'07"
C5	30.00	10.24	5.17	10.19	S38°13'45"E	19°32'28"

ZONING INFORMATION:

CITY ZONING IS C-4 COMMERCIAL DISTRICT
(AS ESTABLISHED IN CHAPTER 20.08)
FOR OTHER PERMITTED USES REFER TO CHAPTER 20.08

PERMITTED USE (MIN. IN FEET)	APARTMENTS	MANUFACTURED HOME PARKS	OTHER PERMITTED USES, EXCEPT AS OTHERWISE SPECIFIED IN THIS TITLE
LOT AREA	MINIMUM SITE AREA OF 1000 SF	20,000	N.A.
AVERAGE LOT WIDTH	50	N.A.	N.A.
LOT DEPTH	N.A.	N.A.	N.A.
OTHER STANDARDS	MINIMUM LOT AREA OF 750 SF PER DWELLING UNIT; UNITED 3 OR MORE STORIES, THEN MINIMUM LOT AREA OF 500 SF PER DWELLING UNIT	SEE DEVELOPMENT STANDARDS IN SECTION 20.10.340 OF THIS TITLE	SEE CHAPTER 20.18
FRONT YARD	25	15	15
REAR YARD	25	10	10
CUMULATIVE FRONT & REAR YARD TOTAL	N.A.	N.A.	N.A.
SIDE YARD	5	10 WHEN ABUTTING A RESIDENTIAL OR APARTMENT DISTRICT	10 WHEN ABUTTING A RESIDENTIAL OR APARTMENT DISTRICT
SIDE STREET YARD	10	10	10
CUMULATIVE SIDE & SIDE STREET YARD TOTAL	N.A.	N.A.	N.A.
OTHER STANDARDS	SEE DEVELOPMENT STANDARDS IN SECTION 20.10.380 OF THIS TITLE	SEE DEVELOPMENT STANDARDS IN SECTION 20.10.340 OF THIS TITLE	SEE CHAPTER 20.18; FLOOR AREA RATIO OF 1.5
MAXIMUM HEIGHT LIMITATION (IN FEET)	MAY EXCEED 60' WHEN AN ADDITIONAL SETBACK OF ONE FOOT IS PROVIDED FROM ALL ADJACENT YARDS/LINES FOR EACH FOOT OF HEIGHT IN EXCESS OF 60.	SEE DEVELOPMENT STANDARDS IN SECTION 20.10.340 OF THIS TITLE	MAY EXCEED 60' WHEN AN ADDITIONAL SETBACK OF ONE FOOT IS PROVIDED FROM ALL ADJACENT YARDS/LINES FOR EACH FOOT OF HEIGHT IN EXCESS OF 60.

STATE OF TEXAS
JESUS E. OGARRA
6080
REGISTERED PROFESSIONAL LAND SURVEYOR

CERTIFICATION

I HEREBY CERTIFY THAT THIS MAP WAS MADE FROM AN ACTUAL ON THE GROUND SURVEY MADE UNDER MY SUPERVISION DURING THE MONTH OF JUNE, 2011 UNDER MY PERSONAL SUPERVISION, I ALSO CERTIFY THAT THIS SURVEY CONFORMS TO THE MINIMUM STANDARDS OF PROFESSIONAL LAND SURVEYING PRACTICE AND ENGINEERING FOR SUBDIVISION OR CONDOMINIUM SURVEY.

JESUS E. OGARRA
REGISTERED PROFESSIONAL LAND SURVEYOR
TEXAS LICENSE NO. 6080

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EXHIBIT "B"

DECLARATION OF RESTRICTIONS AND COVENANTS
INDUSTRIAL ZONES

Blocks 1-A, 1-B, 1-C, 2-A, 2-B, 2-C, 3, 5, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17 and 18
El Paso International Airport Tracts

El Paso International Airport
El Paso, Texas

DECLARATION OF RESTRICTIONS AND COVENANTS
INDUSTRIAL ZONES
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DECLARATION OF RESTRICTIONS AND COVENANTS
INDUSTRIAL ZONES
Blocks 1-A, 1-B, 1-C, 2-A, 2-B, 2-C, 3, 5, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17 and 18
El Paso International Airport Tracts
El Paso, Texas

THIS DECLARATION made this __ day of _____, 2012 by the City of El Paso, a political subdivision of the State of Texas, hereinafter referred to as the "Declarant",

WHEREAS, Declarant is the owner of El Paso International Airport, located in the City of El Paso, State of Texas, hereinafter referred to as the "Airport", and,

WHEREAS, Declarant has established a general overall Development Plan for the development of said Airport and has included in said overall Development Plan certain property for the establishment of a desirable industrial environment for certain manufacturing, business, or industrial uses, and,

WHEREAS, Declarant desires to subject the development of said property to certain conditions, restrictions, and covenants in order to ensure the development of a desirable environment for said activities, and to ensure that said development will be compatible with adjacent land uses on the Airport by performance, appearance, and general operating characteristics.

NOW, THEREFORE, Declarant hereby declares that the property more particularly described hereinafter is and shall be held and conveyed subject to the conditions, restrictions and covenants hereinafter set forth, each and all of which are for the benefit of each Lessee of any portion of said property and each and all of which shall inure to and pass with each and every Lot on said property, and each and all of which shall apply to and bind the respective successors in interest of said property and any portion thereof, as follows:

ARTICLE 1 - PROPERTY

The real property subject to this Declaration is situated on the El Paso International Airport, and is more particularly described as follows: El Paso International Airport Tracts, Blocks 1-A, 1-B, 2-A, 2-B, 2-C, 3, 5, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17 and 18.

ARTICLE 2 - DEFINITIONS

The words and phrases defined in this Article shall have the following meanings when used elsewhere in this Declaration:

2.01 BUILDING: The main portion of any building located on a Lot and all projections or extensions therefrom, including garages, outside platforms and docks, carports, canopies, and porches. Ground cover shall not be included.

2.02 BUILDING COVERAGE: The surface area of a Building Site that may be covered by Buildings, expressed as a percentage of the total site area.

2.03 BUILDING SITE: The entire Lot or Lots (if contiguous) leased by one Lessee.

2.04 CITY: The City of El Paso, Texas, its duly elected Council, or any duly constituted agent or committee representing said Council to fulfill the obligations herein required.

2.05 DECLARANT: The City of El Paso, a political subdivision of the State of Texas.

2.06 DIRECTOR OF AVIATION: Director of the Department of Aviation for the City of El Paso.

2.07 FAA: The Federal Aviation Administration of the U. S. Government or any federal agencies succeeding to its jurisdiction.

2.08 FRONT LOT LINE: The property line that faces a Street. On corner Lots or Lots fronting on two parallel Streets, the Front Lot Line shall mean the property lines facing each Street, one of which shall be designated by the City as the principal Street.

2.09 IMPROVEMENTS: Improvements shall mean but shall not be limited to Buildings, bridges, overpasses, retaining walls, ditches, culverts, lighting supports, earth fills, earth excavations, paving, ground cover, sidewalks, fences, screening walls, signs, and landscaping, constructed, installed, or placed on, under, or above any Lot by or on account of a Lessee.

2.10 INDUSTRIAL PARK COMMERCIAL SUPPORT: The retail sale of goods and services on a limited basis primarily to the employees of the Lessees in the Industrial Zones as specifically provided herein.

2.11 LOT: One of the numbered parcels on the map entitled "El Paso International Airport Tracts" as filed with the County Clerk, County of El Paso, Texas.

2.12 REAR LOT LINE: The property line generally parallel to the Front Lot Line and contiguous to another Lot. On corner Lots, the Rear Lot Line shall be parallel to the Front Lot Line facing the principal Street; on Lots fronting on two parallel Streets, there shall be no Rear Lot Line.

2.13 SETBACK: The distance a Building must be set back from the property line of a Lot.

2.14 STREET: Any street, highway, or other thoroughfare shown on the map entitled "El Paso International Airport Tracts," as filed with the County Clerk, County of El Paso, Texas.

2.16 LESSEE: Any person, firm, or corporation leasing or subleasing one or more Lots or space in a Building on a Lot.

ARTICLE 3 - PERMITTED USES AND PERFORMANCE STANDARDS

3.01 PERMITTED USES: No Building, structure, or land shall be used for any purpose other than the following, or any combination thereof, and such uses shall satisfy the standards set forth in this Declaration:

A. Block 3:

1. Administrative, professional, or government offices.

2. Scientific or research laboratories, including incidental pilot plants in connection therewith.

B. Block 1-A; Block 1-B; Block 1-C, Lots 1, 2, 3, and 3A; Block 2-A; Block 2-B; Block 2-C, Lots 1 through 10; and Block 5, Lots 1 through 10:

1. Administrative, professional, or government offices.

2. Scientific or research laboratories, including incidental pilot plants in connection therewith.

3. Wholesaling.

4. Warehousing.

5. Distribution of products and merchandise, but excluding retail sales of consumer goods such as are usually sold to the general public.

6. Processing and compounding of materials.

7. Fabricating and assembling of products.

8. Servicing, maintenance, and storage for car/truck rental and leasing fleet.

9. Accessory uses directly related to the principal use on the Building Site, including but not limited to:

   a. Facilities for furnishing meals and selling refreshments and personal convenience items solely to employees of the Lessees of a Lot and the guests and management thereof; provided that such facilities shall be located completely within a Building on said Building Site, with no external evidence thereof, including any signs relating thereto.

   b. Motor Pools, including service station facilities used for services of on-premises motor pools, but excluding public sales or service.

   c. Business signs for identification in accordance with provisions of Article 4, Paragraph 4.04.

   d. Outdoor storage facilities as an auxiliary or accessory use when screened from abutting public thoroughfares and other properties by masonry so erected as to screen completely stored materials and vehicles from view at any point at the property line.

C. <u>Block 2-C, Lots 6 through 9; Blocks 7, 8, 9, 10, 11, 12, 13, 14, 15, 16 and 17</u>:

1. All uses permitted in Paragraphs 3.01(A) and (B) of this Article.

2. Certain commercial uses which will perform a necessary and desirable service for all Lessees in the Light Industrial Zone of the Airport, including but not limited to:

   a. Banking institutions;

   b. Engineering, reproduction, and art supply firms;

   c. Reproduction facilities; and any other use which, in the judgment of the City, will contribute to the effective operation of all industrial Lessees, their employees, and invitees. Such uses shall be governed by all performance, architectural, and building standards as herein set forth, and

shall in all ways be compatible with the intent of the plans for development of land uses on the Airport.

D. Block 1-C, Lot 4:

1. Hotels, including restaurants and gift shops incidental to the primary use.

2. All uses permitted in Paragraph 3.01(A) of this Article.

E. Block 18: Automobile parking for the public and Airport employees.

3.02 PROHIBITED USES: The following uses shall not be permitted on a Lot at any time: residential; fast food and takeout restaurants; retail commercial except as otherwise specified; trailer courts; labor camps; junkyards; mining and quarrying; lumber or building materials yards; dumping, disposal, incineration, or reduction of garbage, sewage, offal, dead animals, or refuse; fat rendering; stockyards or slaughtering of animals; smelting of iron, tin, zinc, or other ores; and large animal raising.

3.03 APPROVAL OF USES: Certain industrial uses may neither be specifically prohibited nor specifically permitted. In these cases, approval in writing of the use must be obtained from the Declarant or its authorized agent prior to approval of plans and specifications for construction of the facility. Plans and specifications must be submitted to the Declarant by way of the Director of Aviation over the signature of the Lessee or the Lessee's authorized representative. The Declarant or its authorized agent shall then have thirty (30) working days from receipt of the plans and specifications to approve or disapprove them. If, after thirty (30) working days, the Declarant or its authorized agent has not approved or disapproved said plans, it shall be conclusively presumed that the Declarant has disapproved said use.

3.04 PERFORMANCE STANDARDS: No Lots shall be used or occupied in any manner so as to create any dangerous, injurious, noxious, or otherwise objectionable conditions that may affect any other Lots, including but not limited to:

Hazardous activities
Vibration or shock
Noise
Smoke, dust, odor, or other forms of air pollution
Heat or glare
Electronic or radio interference
Illumination
Liquid or solid refuse or waste
Other substance, condition, or element in such amount as to affect the surrounding area or adjoining premises

A. Hazardous Activities: No activity shall be conducted on any Lot that may be or may become hazardous to public health and safety, that shall increase the fire insurance rating for adjoining or adjacent Lots, or that shall be illegal.

B. Vibration or Shock: No vibration or shock perceptible to a person of normal sensibilities shall be permitted within fifty (50) feet of the property line.

C. Noise. No noise objectionable to a person of normal sensibilities shall be permitted within fifty (50) feet of the property line.

D. Air Pollution: Except for the operation of motor vehicles to, from, and on a Lot as incidental to the use thereof, the following requirements shall apply:

1. Any use producing smoke, gas, dust, odor, fumes, aerosols, particulates, products of combustion, or any other atmospheric pollutant shall be conducted within a completely enclosed building.

2. Any use producing atmospheric emissions shall comply with the standards of the U. S. Environmental Protection Agency, the Texas Air Control Board, any local environmental regulatory body, or any successor organizations performing similar functions, as such regulations exist at the date of the lease to which this Declaration is attached, or which may be enacted during the term of such lease.

3. The emission of odors which are detectable at any point beyond the property line of any plant will not be permitted.

E. Dust Control: All ground areas not covered by structures shall be landscaped or surfaced with concrete, asphaltic concrete, or other comparable dust-free surfacing; shall be maintained in good condition, free of weeds, dust, trash, and other debris; and shall be properly drained and graded. Such development shall be accomplished before issuance of a certificate of occupancy.

F. Heat or Glare: Any operation producing intense glare or heat shall be performed within an enclosed or screened area in such manner that the glare or heat emitted will not be discernible from the property line.

G. Electronic or Radio Interference: No electrical, electronic, or radio emissions shall be produced that will interfere, obstruct, or adversely affect the operation of air navigation aids and Airport communications.

H. Illumination:

1. The source of illumination of any kind on a Lot shall not be visible at the property line except for normal installation of standard interior lighting fixtures within Buildings.

2. The maximum height of any lighting standard shall be limited to thirty (30) feet above curb level.

3. The intensity of illumination shall be limited to 10 foot candles or 0.1 lumens per square foot for open areas or surfaces visible at the property line.

4. The design and location of exterior lighting shall comply in all respects to the requirements of the FAA or any successor agencies and other governmental agencies having applicable jurisdiction with respect to height, type, and placement of lighting standards as they may affect the safety of flight operations into, from, and around the Airport.

I. Refuse and Trash: No refuse or trash shall be kept, stored, or allowed to accumulate on any Lot.

J. Sewage Disposal Systems: No cesspool, septic tank, or other sewage disposal system or device shall be installed, maintained, or used on any Lot without the approval of the City.

ARTICLE 4 - REGULATION OF IMPROVEMENTS

4.01 MINIMUM SETBACK LINES. No structure of any kind and no part thereof shall be placed on any Lot closer to a property line than hereby described.

A. Front Setbacks: Setbacks from Front Lot Lines shall be a minimum of twenty-five (25) feet from the Street; the area between the Street(s) and the Front Setback Line shall be landscaped. If visitor parking is provided in the front Setback area, all Buildings shall be set back a minimum of eighty (80) feet from the Lot line. If the Lessee's Lot or Lots front on more than one Street, the front Setbacks shall be from all Lot lines facing a Street.

The front Setback area(s) shall be landscaped and planted in accordance with the Airport Landscaping Standards except for areas used for parking lots, driveways, or sidewalks. In no event shall less than twenty percent (20%) of the required minimum front Setback area(s) facing a Street be

landscaped and planted. If no parking area is provided in the front Setback area(s), the entire front Setback area(s) shall be landscaped.

B. Side Setbacks: Side Setbacks shall be a minimum of twenty (20) feet, and up to a maximum of fifty percent (50%) of the required minimum Setback shall be landscaped and planted at the discretion of the Declarant or its authorized agent. If a single Lessee uses two or more Lots with a common boundary line between them, the side Setback restrictions may be waived by the Declarant or its authorized agent for the term of the shortest lease.

C. Rear Setbacks: Rear Setbacks shall be twenty (20) feet from the Lot line or utility easement line, except that Buildings on Lots abutting railroad spurs may have loading docks extending to the Rear Lot Line, provided such construction does not interfere with utility services.

D. Exclusions from Setback Requirements: The following structures or Improvements are excluded from the Setback requirements:

1. Roof overhang.

2. Steps and walks.

3. Paving and associated curbing, except that parking areas will not be permitted within ten (10) feet of Street property lines.

4. Fences.

5. Landscaping.

6. Planters, none over four (4) feet in height.

7. Railroad spur tracks, switches, and bumpers.

8. Approved signs identifying the Lessee or SubLessee.

4.02 EXCAVATION:

A. General: No excavation shall be made by a Lessee unless the excavation is directly related to the construction of an Improvement. When construction is complete, all disturbed ground shall be filled or graded and shall be landscaped in accordance with and conform to the Airport Landscaping Standards.

B. Cut and Fill: The Declarant or any authorized agent thereof may at any time make such cuts and fills on any Lot or other part of said Lot and do

such grading and moving of earth as, in its judgment, may be necessary to improve or maintain the Streets in or adjacent to any Lot and to drain surface waters therefrom; provided that after the principal structure on a Lot shall have been completed in accordance with approved plans, the rights of the Declarant under this Paragraph 4.02 shall terminate with respect to such Lot, except that the Declarant shall thereafter have the right to maintain existing Streets and drainage structures.

4.03 LANDSCAPING: Every Lot on which a Building shall have been placed shall have landscaping according to plans prepared in accordance with the standards established in this Paragraph 4.03 and any amendments or successor standards thereto, including standards used by the Airport Architectural Review Committee. The first phase of such landscaping, as approved, shall have been completed within ninety (90) days from the date the certificate of occupancy has been filed, with a copy sent to the Director of Aviation, on the initial Building.

Setback areas shall be landscaped to the minimum extent outlined in Paragraph 4.01(A) and (B). In addition, paving or landscaping shall extend from the property line to the curb, such paving and landscaping to be compatible with treatment for this area on other lots on the same block.

All trees shall be limited to a height of thirty-five (35) feet above the curb line.

Desert planting, defined as native desert plants set in a ground cover of boulders, pebbles, and/or sand, shall not comprise more than twenty percent (20%) of any given setback area planting program. This limitation may be waived by Declarant or its authorized representative upon submittal of detailed landscape plans indicating a greater coverage by desert planting.

Lessees are encouraged to expand landscape development plans to include such elements as pools, fountains, sculpture, rock arrangements, sheltered outdoor seating areas, all subject to design approval by the Declarant or its authorized agent prior to installation.

4.04 SIGNS: The following regulations shall apply to all signs displayed for observation from outside a building whether displayed on, near, or within a building:

A. Permitted Signs: Signs on the Airport shall be limited to those identifying the uses conducted on the site, to those necessary for directional purposes, and to those required to advertise the rental of the specific property on which the sign is displayed. The size, design, and location of all signs shall require the written approval of the Director of Aviation or its authorized agent prior to installation. Outdoor advertising, billboards, or flashing lighting shall not be permitted.

B. Area and Location: One sign may be permitted in the front of each leasehold and one sign may be attached to the side of the building which faces a public street, both to state only the name, products, and services of the Lessee. The sign in the front of the leasehold shall not exceed one square foot area for each lineal foot of lot frontage and shall not extend more than 35 feet in height above the ground. An approved product or company symbol or device may be used in addition to each sign and, or the front setback line, may extend up to any point on the building. Any such symbol or device shall be considered a sign for the purposes of this Article and shall require the written approval of the City prior to installation.

C. Construction: All signs shall comply with all building codes of the City of El Paso and with all rules and regulations of the Federal Aviation Administration or any successor agencies.

4.05 PARKING AREAS: Adequate off street parking shall be provided to accommodate the parking requirements of a business within the limits of the Lot. Parking for employees, visitors, and business vehicular traffic shall be provided on the Lot and designated by white lines painted on the paved surface. All parking must comply with applicable City parking ordinances.

Parking shall not be permitted on the public Streets and between the Street pavement and property line. If visitor parking is provided in the front Setback area, all Buildings shall be set back a minimum of eighty (80) feet from the Lot line. If visitor parking is permitted in the front Setback area(s), such parking shall be screened from the Street(s) by approved trees or shrubbery specified in the Airport Landscaping Standards or such other screening as may be approved by the Declarant or its authorized agent.

4.06 STORAGE AND VEHICLE LOADING AREA: All outside storage and refuse areas shall be constructed and contained to eliminate odors, insects, dust, visual nuisances, and other similar nuisances.

No materials, supplies, or equipment, including company-owned or company-operated trucks, shall be stored in any area on a Lot except inside a closed Building or behind a barrier completely screening such areas from view of adjoining Lots and/or public Streets.

All provisions for the loading and maneuvering of vehicles incidental to the operation of the business shall be placed on the Lot(s) leased and shall not encroach into Setback areas except the side setback area; on street vehicle loading shall not be permitted. Vehicle loading shall be permitted only at the rear of Buildings, or on a side, except that such loading performed at a side shall be completely screened from view of adjoining Lots and/or public Streets.

4.07 BUILDING HEIGHTS: Building heights shall be limited to the height requirements established in Federal Aviation Regulations Part 77 or successor regulations for the Airport but shall not exceed a maximum of thirty-five (35) feet above the curb line, including any building equipment, penthouse, extrusions, etc.

4.08 BUILDING COVERAGE:

A. Block 3: All Buildings and structures, or portions thereof, placed on the Lot(s) shall not cover more than forty percent (40%) of a Building Site.

B. Block 1-A, Block 1-B; Block 1-C; Block 2-A; Block 2-B; Block 2-C; Blocks 5, 7, 8, 9, 10, 11, 12, 13, 14, 15 and 16: All Buildings and structures, or portions thereof, placed on the Lot(s) shall not cover more than fifty percent (50%) of a Building Site.

4.09 BUILDING REGULATIONS:

A. General: Any Building, Improvement, or structure on a Lot shall conform to the following general conditions of construction practice.

B. City Zoning Code: The City of El Paso Zoning Code, as amended, shall apply except that in the event of a conflict between the City Zoning Code and the standards in this Declaration, the more stringent requirement shall apply.

C. FAA Regulations: All construction must comply with applicable codes and ordinances and the rules and regulations of the FAA or any successor agencies, where applicable.

D. Final Approval by Declarant: Final approval of the compatibility of any Improvement with the overall architectural character of the Industrial Zones shall remain with the Declarant. Construction shall not commence before the Declarant or its authorized agent has granted final approval.

4.10 TYPE OF CONSTRUCTION:

A. Building Materials: All buildings shall be framed with reinforced concrete or masonry, structural steel, structural aluminum, or wood that has been satisfactorily treated to resist fire, rot, and insects. Approved siding shall be masonry, concrete or glass. Porcelain, enameled steel, anodized aluminum or treated wood may be used upon approval by the Director of Aviation based upon the favorable recommendation of the Airport Architectural review Committee. Concrete, masonry, and treated wood siding shall be kept neatly painted, if used. State-of-the-art changes in types of construction may be permitted from time to time only upon the

express condition that any such change be consistent with the intent of this Declaration and that any such change receives written approval of at least three members of the Airport Architectural Review Committee. Pre-fabricated metal buildings are specifically prohibited.

B. Roof Screening: All heating and cooling towers, equipment, etc., placed on the roofs of Buildings shall be screened or enclosed from view so that they are architecturally compatible with the main portion of the Building.

C. Accessory Buildings, Enclosures, and Fences: Accessory Buildings, enclosures, and fences shall enhance the design of and be of the same quality of materials as the Buildings they serve.

D. Building Codes and Ordinances: All Buildings shall conform to all local building codes and ordinances.

E. Approval by Director of Aviation: The type of building construction proposed shall be subject to the written approval of the Director of Aviation as authorized agent of Declarant and the decision of Director of Aviation shall be based on the recommendations of the Airport Architectural Review Committee and appealable to the City Council.

4.11 PIPES: No water pipe, gas pipe, sewer pipe, or drainage pipe (other than those within structures) shall be installed or maintained on any Lot above the surface of the ground, except hoses and movable pipes used for irrigation or similar purposes.

ARTICLE 5 - SUBMISSION OF PLANS FOR IMPROVEMENTS

5.01 SUBMISSION OF PLANS: All plans for Improvements shall be prepared by registered engineers, architects, and landscape architects; shall be of contemporary design; and shall require prior written approval by the Declarant or its authorized agent before any construction may begin.

Prior to the execution of a lease for a Building Site, the Declarant and the Lessee shall jointly determine a reasonable time schedule in which final plans and specifications shall be submitted and construction of facilities shall be completed. Such time schedule shall be incorporated in the lease.

The following plans shall be required for submission to the Declarant within the time schedule determined:

A. Topographic, Grading, Drainage, Utility, and Plot Plans:

1. Topographic, grading, drainage, and utility plans showing one (1) foot contour intervals and spot elevations referenced to the Airport datum.

2. A plot plan at a scale not smaller than one (1) inch equals one hundred (100) feet showing the relationship of the proposed Improvements to the Lot(s) demised and to the Improvements on adjacent Lots, utilities, and access thereto, curbs, walks, driveways, parking areas, etc.

B. Floor Plans: Floor plans at a scale not smaller than one-sixteenth (1/16) inch equals one (1) foot.

C. Ground Cover Plans: Ground cover plans, including landscaping, in accordance with the Airport Landscaping Standards.

D. Renderings: A true architectural rendering of the proposed Buildings, including the proposed exterior color scheme, style, materials, and design and placement of signs.

E. Materials and Color Samples: Samples, no smaller than one (1) foot square, of all materials and/or paint or other coating colors to be used on the exterior of all Improvements that are visible from any point on any Lot line. The Declarant reserves the right to approve all said materials and/or colors and further reserves the right to suggest alternative materials and/or colors that, in the sole opinion of the Declarant, shall be determined to be more compatible with the Declarant's objectives for the overall aesthetic character and quality of Improvements on the Airport.

F. Other Plans: Any other plans, specifications, or design features that the Declarant or its authorized agent may deem necessary and request.

5.02 FORM AND CONTENT OF PLANS: The Declarant or its authorized agent may promulgate rules governing the form and content of plans to be submitted for its approval and may issue statements of policy with respect to approval or disapproval of architectural styles, details, or other matters pertaining to the plans.

Such rules and such statements of policy may be amended or revoked by the Declarant at any time, and no inclusion in, omission from, or amendment of any such rule shall be deemed to bind the Declarant to its approval or to waive the exercise of the Declarant's discretion as to any such matter.

5.03 CODES AND REGULATIONS: All Improvements shall be planned and constructed in accordance with the rules and regulations established by the Declarant or its authorized agent, the laws and ordinances of the City, applicable

building codes, and the rules and regulations of the FAA or any successor agencies, where applicable.

5.04 REVIEW OF PLANS: Plans and specifications for proposed Improvements submitted to the Declarant for approval by its authorized agent shall be reviewed by the Airport Architectural Review Committee.

The Airport Architectural Review Committee shall submit in writing to the Director of Aviation, as authorized agent of the Declarant, the Committee's recommendation with respect to the plans and specifications of the proposed Improvements within thirty (30) working days of the original date of submission to the Declarant. The Director of Aviation, shall within ten (10) days of receipt by him of the recommendations of the committee, approve or disapprove the plans and specifications. Any party dissatisfied with a decision of the Director of Aviation based on the recommendation of the Airport Architectural Review Committee shall have the right to appeal such decision to the City Council. The Airport Architectural Review Committee shall also be responsible for inspecting and continuous monitoring of construction, signs, installation of landscaping and review of the as-built plans.

5.05 BASIS FOR APPROVAL BY THE DECLARANT: Approval by the Declarant or its authorized agent shall be based on the adequacy of site dimensions and on the general conformity of the plans and specifications to the intent of this Declaration and to the appearance and design of neighboring properties. The Declarant shall not arbitrarily, without written explanation, withhold approval of properly submitted plans and specifications.

Approval of any plans or specifications for use on any one Lot shall not be deemed a waiver of the discretionary right of the Declarant to disapprove the same plans or specifications if such plans or specifications are subsequently submitted for approval for use on any other Lot or Lots.

5.06 FAILURE TO APPROVE: If the Declarant fails to approve or disapprove plans and specifications within forty (40) working days after the same have been submitted, it shall be conclusively presumed that the Declarant has disapproved said plans and specifications.

5.07 COMMITMENT TO CONSTRUCT: Upon approval by the Declarant of plans for construction of any structure, a copy of the approved plans shall be deposited for permanent record with the Declarant and a copy of such plans bearing the written approval of the Declarant shall be returned to the Lessee of the Lot(s) on which such structure is or will be placed.

Approval of these plans by the Declarant shall constitute a commitment on the part of the Lessee to erect and maintain the Improvements as proposed and approved within the time schedule established in Paragraph 5.01.

5.08 CONSTRUCTION WITHIN TIME SCHEDULE SPECIFIED: Any approved construction shall be prosecuted diligently in accordance with the approved plans and specifications and shall be completed within the specified time schedule. Failure to complete such work in the specified time schedule shall cause such approval to be automatically withdrawn unless the Declarant or its authorized agent grants written extension of such approval.

After such automatic withdrawal of approval, the Lessee will be considered in default of its lease for such Lot(s), and the Declarant may terminate such lease in accordance with the provisions of that document.

5.09 LANDSCAPING PLANS: Trees, shrubs, fences, hedges, or other landscaping shall not be planted, placed, or maintained on any Lot until a complete plan thereof has been submitted to and approved by the Declarant or its authorized agent in writing. The landscaping plans shall be prepared in accordance with the Airport Landscaping Standards and shall be submitted at the same time as the other plans and specifications for proposed Improvements. The plans shall be reviewed by the Airport Architectural Review Committee in the same manner and time period as those required for architectural plans under Paragraph 5.04.

All plans for landscaping Improvements shall be prepared by registered or approved landscape architects. Final approval shall be by the Declarant or its authorized agent.

5.10 PLANS FOR ALTERATIONS IN IMPROVEMENTS: All plans for alterations to the leased Lot(s), either for the construction of additional facilities or alterations to existing Buildings, shall be prepared, submitted, and approved as outlined in Paragraphs 5.01 through 5.09 and shall be subject to the same restrictions as herein provided. This paragraph shall apply only to exterior or structural changes; alterations to the interior of Buildings shall not be considered unless they affect the performance standards in Article 3.

5.11 FEES: The Declarant may charge and collect a reasonable fee, as determined every five years by the Declarant or its authorized agent, for architectural review and other reviews of plans submitted for approval. Such plans could relate to initial development or alterations to existing development. The fee shall be payable at the same time such plans are submitted. If initial plans or any subsequent plans are disapproved, an additional review fee, as determined by the Declarant or its authorized agent, shall be paid before further review.

The amount of such fee shall not exceed the actual cost to the Declarant of making such examination, including the cost of any architect's or engineer's fees incurred in connection therewith.

ARTICLE 6 - ENFORCEMENT

6.01 CONSTRUCTION WITHOUT APPROVAL: If any structure shall be erected, placed, altered, or maintained on any Lot other than in accordance with plans and specifications approved by the Declarant or its authorized agent, such erections, alterations, and maintenance shall be deemed to have been undertaken without the approval required herein. This restriction shall be applicable to landscaping and signage plans as well as to architectural plans.

In the event of such construction without approval, the Lessee will be considered in default of the lease for such Lot, and the Declarant may terminate the lease in accordance with the provisions set forth in that document.

6.02 ABATEMENT AND REMOVAL: If the Declarant determines that this Declaration is being violated by any Lessee on a Lot or Lots, the Declarant shall have the right after giving notice as required by the lease to enter the Lot(s) of such Lessee to determine the exact cause, effect a cure, and abate or remove the violation from the Lot(s). All the expenses incurred in this action shall be payable by the Lessee or sublessee of the facility in which the violation occurred.

6.03 SUIT: The Declarant or the Lessees of facilities affected by a violation shall have the right to file suit against violators of this Declaration, to prevent a violation, effect a cure, abate or remove a violation, or recover damages for said violation.

6.04 ATTORNEY'S FEES: In any legal proceeding for the enforcement of this Declaration or prevention of a violation of this Declaration or any part hereof, the party against whom judgment is rendered shall bear the reasonable expense of attorneys' fees of the prevailing party in the amount to be specified by the Court.

6.05 RIGHT OF ENTRY AND INSPECTION: Any authorized agent of the Declarant, at any reasonable time and without notice, may enter on and inspect any Lot to ascertain whether the maintenance of such Lot, Improvements under construction, or alteration of structures thereon are in compliance with the provisions hereof. Neither the Declarant nor such authorized agent shall be deemed to have committed a trespass or other wrongful act by reason of such entry or inspection.

6.06 FAILURE TO ENFORCE A RESTRICTION: The Declarant may fail to enforce any restriction herein specified on any Lessee on a Lot or Lots, but in no event should this be deemed a waiver of this Declaration or the right to enforce any restriction at a later date.

ARTICLE 7 - MISCELLANEOUS PROVISIONS

7.01 ACCEPTANCE BY ALL LESSEES: Every person, firm, or corporation who shall hereafter acquire any right, title, or interest in any Lot(s) or Buildings or portions thereof shall have consented and agreed to every covenant and restriction herein contained or implied even though this Declaration may not have been made reference to or part of the documents received as a part of leasing a Lot or Building or any portion thereof.

7.02 ASSIGNMENT OF DECLARANT'S RIGHT AND DUTIES: The Declarant has certain rights, powers, and reservations as herein established by this Declaration and may assign to any person, firm, or corporation these rights, powers, and duties evidencing its consent in writing to accept such an assignment and assume such duties. The person, firm or corporation having accepted the rights of the Declarant shall also be bound to the obligations in this Declaration.

7.03 HOUSEKEEPING: If accumulations of weeds, rubbish, or items of equipment or supplies are permitted to remain on a Lot more than ten (10) days after a request in writing from the Declarant or its authorized agent to have them removed, the Declarant or its authorized agent may enter on any Lot to remove same by whatever means it deems necessary. Such entry shall not be deemed a trespass, and the Declarant shall not be subject to any liability therefor. The cost of such work plus 10% shall be borne by the Lessee.

7.04 MAINTENANCE OF LANDSCAPING: The Declarant shall be the sole judge of the quality of maintenance of the landscaping. If landscaping areas are not maintained in accordance with the standards in the lease and those in this Declaration and the condition is not corrected within ten (10) days after written notice from the Declarant or its authorized agent, the Declarant or its authorized agent shall have the right to enter on any of the Lot(s) leased and plant or replant such areas, without being deemed guilty of trespass. The costs therefor, as determined by the Declarant, shall be paid by the Lessee.

7.05 SIDEWALKS PROHIBITED: The construction of sidewalks is prohibited except (1) between onsite parking areas and the Buildings they serve, (2) between Buildings involved in a single industrial activity for single Lessee, and (3) along the east side of Airport Road. Any sidewalks to be constructed in said areas shall be depicted on the plot plans and shall be subject to approval by the Declarant.

7.06 USE PERMITS. Such use and occupancy permits as may be required by the Building Code of the City of El Paso shall be maintained in force at all times by each Lessee.