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

DEPARTMENT: Sun Metro
AGENDA DATE: March 8, 2011
CONTACT PERSON/PHONE: Jay Banasiak, Director (915) 534-5810
DISTRICT(S) AFFECTED: 8

SUBJECT:

THAT the City Manager be authorized to sign the Lease Agreement by and between the CITY OF EL PASO and the TEXAS HISTORICAL COMMISSION for the lease of office and storage space at the City's Union Plaza Transfer Terminal.

BACKGROUND / DISCUSSION:

Sun Metro is recommending approval of the lease with the State of Texas for the office space at Union Plaza Transfer Terminal.

PRIOR COUNCIL ACTION:

No.

AMOUNT AND SOURCE OF FUNDING:

It is estimated that this contract will provide revenue to Sun Metro of approximately 27,600.00 per year.

BOARD / COMMISSION ACTION:

N/A

*****AUTHORIZATION*****

DEPARTMENT HEAD:



RESOLUTION

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

THAT the City Manager be authorized to sign the Lease Agreement by and between the CITY OF EL PASO and the TEXAS HISTORICAL COMMISSION for the lease of office and storage space at the City's Union Plaza Transfer Terminal.

ADOPTED this _____ day of _____ 2011.

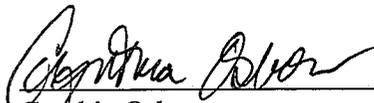
THE CITY OF EL PASO

John F. Cook
Mayor

ATTEST:

Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:



Cynthia Osborn
City Attorney

APPROVED AS TO CONTENT:



Jay Banasiak, Director
Mass Transit Department

STATE OF TEXAS)
) LEASE AGREEMENT
COUNTY OF EL PASO)

THIS LEASE AGREEMENT (this "Lease") is entered into this ___ day of _____, 2011 (the "Effective Date"), by and between the **CITY OF EL PASO, TEXAS** ("Lessor") and the **TEXAS HISTORICAL COMMISSION** ("Lessee").

Preliminary Statement

WHEREAS, Lessor owns certain real property located at 400 W. San Antonio Ave., El Paso, Texas, which is graphically depicted as "RETAIL A" and "RETAIL B" (the "Property") on *Exhibit A* attached hereto; and

WHEREAS, Lessor has agreed to lease the Property to Lessee, and Lessee has agreed to lease the Property from Lessor, on the terms and conditions set forth in this Lease.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Lessor and Lessee enter into this Lease on the following terms and conditions:

ARTICLE I. LEASE AND TITLE

1.1 **Lease.** Lessor leases to Lessee, and Lessee leases from Lessor, the Property graphically depicted as "RETAIL A" and "RETAIL B" on *Exhibit A* attached hereto.

1.2 **Title.** Title to the Property and any improvements now existing or hereafter constructed on the Property shall remain with Lessor.

ARTICLE II. TERM AND RENEWAL

2.1 **Initial Term.** This Lease will be for an initial term of twelve (12) months ("Initial Term"), commencing on March 15, 2011 and continuing through March 15, 2012, unless otherwise earlier terminated in accordance with the terms of this Lease.

2.2 **Renewal.** With the approval of Lessor, Lessee may renew this Lease for an additional six (6) month term ("Additional Term"), on the terms and conditions agreed upon by the parties at the time of renewal, by giving Lessor written notice of Lessee's intention to renew the Lease not later than sixty (60) days prior to the expiration of the then current term. If Lessor elects not to approve such renewal, it shall provide written notice of disapproval in writing not later than thirty (30) days prior to the expiration of the then current term and, if such notice is given, this Lease shall terminate at the expiration of such term. If Lessor does not provide written notice of disapproval, this Lease shall automatically extend for an Additional Term on the Lease terms and conditions in effect immediately preceding such Additional Term.

ARTICLE III. PERMITTED USES AND ALTERATIONS

3.1 Permitted Uses. The Property shall be used for the exclusive purpose of providing the Texas Historical Commission, a State agency, with office and storage space. Any other use of the Property is prohibited without the prior written consent of Lessor.

3.2 Alterations. Lessee may not erect, alter, remodel or renovate the Property without the prior written consent of Lessor; provided that, should Lessor give consent, Lessee shall pay all costs and expenses incurred pursuant to any such project.

ARTICLE IV. RENT AND PARKING

4.1 Rent. Lessee shall pay Lessor \$27,600.00 in rent (the "Rent") for the Initial Term, in equal monthly installments of \$2,300.00 per month ("Monthly Rent Payment"). The Monthly Rent Payments are due and payable to SMG, a Pennsylvania General Partnership ("SMG"), manager on behalf of Lessor, at the El Paso Convention Center, 1 Civic Center Plaza, El Paso, Texas 79901. Each Monthly Rent Payment is due and payable on or before the first of each month, beginning on the first day of the Initial Term and continuing thereafter until the Rent is paid in full.

4.2 Parking. Lessor will provide Lessee, at no additional cost, eight (8) monthly parking access cards to Union Plaza Transit Terminal Parking Garage located at 400 W. San Antonio Ave., El Paso, Texas 79901 (the "Parking Garage"); provided, however, that any use of the Parking Garage shall be at Lessee's own risk. Lessor and SMG hereby specifically disclaim any responsibility to protect against loss or damage to any vehicles (and the contents of such vehicles) while such vehicles are in the Parking Garage.

ARTICLE V. MAINTENANCE, SECURITY AND INSURANCE

5.1 Lessor's Maintenance Obligations. Lessor will, at its sole cost and expense, keep the walls, doors, windows, and the structure of the Property in good working order.

5.2 Lessee's Maintenance Obligations. Lessee, at its sole cost and expense, shall maintain the Property in a neat, clean and presentable condition consistent with good business practices and shall promptly repair any damage to the Property caused by Lessee, its agents, employees, patrons or guests. Lessee agrees to take good care of the interior of the Property and to suffer no waste, damage or injury to the Property or any improvements, fixtures or equipment located thereon. Lessee's obligations hereunder include, but are not limited to, (i) maintaining the Property, improvements, fixtures, equipment and any personal property, in a clean and orderly condition and appearance; (ii) complying with federal, state and local laws, including, but not limited to, all insurance regulations and requirements concerning the use and condition of the Property; (iii) timely paying all costs and expenses associated with Lessee's use of the Property, including, but not limited to, all utility bills; and (iv) upon termination of this Lease, delivering the Property to Lessor in a good, clean condition, ordinary wear and tear excepted.

5.3 Security. Lessor attempts to provide security personnel for the area surrounding the Property, but such security is not for the benefit of Lessee and is not consideration for this Lease. Based on the foregoing, Lessee hereby acknowledges and agrees that (i) any security provided by

Lessor is not consideration for this Lease; (ii) by providing security, Lessor does not and shall not have any obligation or duty to, or assume any risk or responsibility for, (A) Lessee, any employee, officer, elected official, agent, contractor, subtenant, licensee or invitee of Lessee; or (B) any of Lessee's property; and (iii) but for Lessee's agreement with the foregoing, Lessor would not enter into this Lease.

5.4 Insurance Obligations.

5.4.1 Liability Insurance. At all times during the term of this Lease, Lessee, at its sole cost, will provide and keep in force liability insurance covering Lessor, SMG, and Lessee for liability for property damage and personal injury. To the extent Lessee is not self insured, this insurance is to be carried by one or more solvent insurance companies duly authorized or admitted to transact business in Texas, selected by Lessee and approved by Lessor. 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 One Million Dollars (\$1,000,000.00) 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, One Million Dollars (\$1,000,000.00) for property damage arising out of each occurrence, and Five Hundred Thousand Dollars (\$500,000.00) Fire Damage Liability, 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. Such policy or certificate shall provide that the insurance cannot be cancelled or the amount of coverage changed without thirty (30) days prior written notice to Lessor. Certificates of insurance shall be delivered to the Director of the Mass Transit Department of the City of El Paso at least ten (10) days prior to the effective date of this Lease and shall name Lessor, its officers, agents, servants and employees as additional insureds. Any failure to maintain the required insurance shall be grounds for termination of this Lease.

5.4.2 Self Insured. Lessee has represented to Lessor that Lessee is self insured. Lessor hereby agrees to accept Lessee's self insurance in lieu of the insurance amounts required above.

ARTICLE VI. LESSOR'S ACCESS

Lessee agrees to grant to Lessor, its employees, agents and contractors, reasonable access to the Property for all purposes necessary to the fulfillment of this Lease and for the maintenance and preservation of the Property; provided, however, except in case of emergency, (i) Lessor shall give Lessee at least 24 hours verbal notice of its intent to enter upon the Property and the purpose of such entry; (ii) Lessee may, in its sole and absolute discretion, designate a representative to accompany Lessor's employees, agents and contractors while on the Property; and (iii) Lessor shall only be allowed access to the Property during Lessee's regular business hours. If Lessee receives notice as

required hereunder, Lessee shall assure that the Property is accessible to Lessor's employees, agents and contractors for the time and purposes specified by Lessor pursuant to such notice.

Lessee hereby acknowledges that (i) Lessee intends to change the locks and security system on the Property without providing keys or security codes to Lessor; (ii) Lessor and/or emergency personnel may not be able to access the Property as quickly as they otherwise could if Lessor was provided such keys and security codes; and (iii) the Property and personal property thereon, in an emergency situation, may suffer greater damage due to Lessor's inability to access the Property. Based on the foregoing, Lessee hereby agrees that it shall not hold Lessor responsible for any damages arising from Lessor's inability to access the Property.

ARTICLE VII. INVOLUNTARY LIENS

Lessee shall not cause or permit any mechanic's or other liens for any labor performed or materials furnished for or on behalf of Lessee to cloud or impair Lessor's title to the Property.

ARTICLE VIII. ASSIGNMENT AND SUBLETTING

Lessee shall not assign this Lease or any interest herein, and shall not sublease or sublet the Property or any interest therein, except upon Lessor's prior written consent, which consent shall not be unreasonably withheld. Any subleasing or assignment, even with the approval of Lessor, shall not relieve Lessee from liability for payment of rent as provided above or from the obligation to keep and be bound by the terms, conditions and covenants of this Lease. Acceptance of rent from any other person shall not be deemed to be a waiver of any of the provisions of this Lease or a consent to the assignment or subletting of the Property. Consent to one assignment or subletting shall not constitute consent of any subsequent or other assignment or subletting. Lessor may assign, in whole or in part, Lessor's interest in this Lease and may sell all or part of the Property; provided, however, in the event of a sale during the Initial Term or any Additional Term of this Lease, the sale shall be made subject to the terms and conditions of this Lease.

ARTICLE IX. DEFAULT AND REMEDIES

9.1 Lessee's Default. Lessee will be in default under the terms of this Lease in the event: (i) any Monthly Rent Payment is not paid when due; or (ii) Lessee fails to perform any covenant, agreement or obligation hereunder.

9.2 Lessor's Remedies. If Lessee fails to cure any default under this Lease within ten (10) days after it receives written notice of such default, Lessor may enter into and upon the Property or any part thereof and repossess the same, expelling and removing therefrom all persons and property (which property may be removed and stored at the cost, and for the account of Lessee), and either: (i) terminate this Lease holding Lessee liable for damages for its breach; or (ii) without terminating this Lease, relet the Property or any part thereof upon such terms and conditions as Lessor deems appropriate. If Lessor shall proceed in accordance with alternative (ii), should the net amount received from reletting the Property during any month or part thereof be less than the rent due and owing from Lessee during such month or part thereof under the terms of this Lease, Lessee shall pay such deficiency immediately upon demand by Lessor.

ARTICLE X. HOLDING OVER

Except as otherwise expressly provided in this Lease, there shall not be any holding over by Lessee or any permitted assignee or sublessee beyond the expiration or sooner termination of the applicable term of this Lease. If for any reason there is a holding over by Lessee or any permitted assignee or sublessee, such event shall give rise to a month-to-month tenancy upon the same terms and conditions as are provided in this Lease, except the rent, which, during the period of such holding over, shall be twice the monthly rental in effect immediately prior to the expiration of the applicable Lease term.

ARTICLE XI. CUMULATIVE REMEDIES

All rights and remedies of Lessor under this Lease shall be cumulative and none shall exclude any 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.

ARTICLE XII. LIMITATION OF LIABILITY/INDEMNIFICATION

NEITHER LESSOR NOR SMG ("INDEMNITEES") SHALL HAVE ANY LIABILITY, DUTY OR RESPONSIBILITY FOR OR WITH RESPECT TO ANY CLAIM OR CAUSE OF ACTION THAT ARISES FROM THE ACTIONS OR OMISSIONS OF LESSEE OR OF ANY EMPLOYEE, OFFICER, ELECTED OFFICIAL, AGENT, CONTRACTOR, SUBTENANT, LICENSEE OR INVITEE OF LESSEE, AND ANY CLAIM OR CAUSE OF ACTION THAT RESULTS FROM, OUT OF, OR WITH RESPECT TO USE OF PROPERTY OR OTHER AUTHORIZED IMPROVEMENTS OR FACILITIES LOCATED ON THE PROPERTY BY LESSEE.

ARTICLE XIII. MISCELLANEOUS PROVISIONS

13.1 No Waiver. The failure of either party at any time to require performance by the other party of any provision of this agreement shall in no way affect the right of such party to require performance of that provision. Any waiver by either party of any breach of any provision of this agreement shall not be construed as a waiver of any continuing or succeeding breach of such provision, a waiver of the provision itself, or a waiver of any right under this agreement.

13.2 Amendment. This agreement may only be amended by a writing signed by both parties.

13.3 Severability. All agreements and covenants contained in this agreement are severable. Should any term or provision of this agreement be declared illegal, invalid or unenforceable by a court of competent jurisdiction, the remainder of this agreement will not be affected; and in lieu of each such provision, there will be added as part of this agreement, a provision which preserves the intention of the unenforceable provision, if possible, but which complies with the law.

13.4 Section Headings. The paragraph or section headings contained in this agreement are for reference purposes only and shall not in any way control the meaning or interpretation of this

agreement.

13.5 Joint Preparation. Each party has had the opportunity to be represented by counsel of its choice in negotiating this agreement. This agreement shall therefore be deemed to have been negotiated and prepared at the joint request, direction, and construction of the parties, at arms' length, with the advice and participation of counsel, and will be interpreted in accordance with its terms without favor to any party.

13.6 Limits of Lessee's Funding. The Parties acknowledge and agree that nothing in this Agreement will be interpreted to create a future obligation or liability in excess of the funds currently appropriated to the Texas Historical Commission during this biennium. If funds are not appropriated by the legislature, the Lessee may terminate this Agreement by giving 30 days written notice to the Lessor, and all obligations of the Lessee shall expire on the 31st day after notice is given.

13.7 Federal Funding Requirements. Lessee shall comply with the Federal Transit Administration Federal Clauses Federal Funding Requirements as applicable and attached as *Exhibit B*.

13.8 Notices. Any notice, demand, request, consent or approval that either party may or is required to provide to the other, shall be in writing and either personally delivered or sent via United States Postal Service certified mail return receipt requested, and shall be deemed to have been given on the date of delivery, or the date of attempted delivery, if refused, unclaimed or undeliverable.

13.8.1 Notice to Lessor. Any notices to Lessor shall be sent to the following address:

City of El Paso
Attention: Office of the City Manager
Two Civic Center Plaza, 10th Floor
El Paso, Texas 79901-1196

cc: Director, Mass Transit Department
700-A San Francisco St.
El Paso, Texas 79901

cc: SMG – General Manager
El Paso Convention Center
1 Civic Center Plaza
El Paso, Texas 79901

or such address as Lessor may hereafter direct in writing from time to time.

13.8.2 Notice to Lessee. Any notices to Lessee shall be sent to the following address:

Texas Historical Commission
Attention: Director – Historic Sites Division
P.O. Box 12276

Austin, Texas 78711-2276

cc: Site Manager – Magoffin Home
Texas Historical Commission
1120 Magoffin Ave.
El Paso, Texas 79901

or such other address as Lessee may hereafter direct in writing from time to time.

13.9 Execution and Counterparts. This agreement may be executed in any number of counterparts; each of which when so executed and delivered shall be deemed an original, and such counterparts together shall constitute only one instrument. Any one of such counterparts shall be sufficient for the purpose of proving the existence and terms of this agreement, and no party shall be required to produce an original or all of such counterparts when making such proof.

13.10 Complete Agreement. This agreement supersedes any and all other agreements, either oral or in writing, between the parties hereto with respect to the subject matter hereof, and this agreement, together with any exhibits attached hereto, constitutes the entire agreement between the parties relating to the terms and conditions of the agreement. The parties expressly acknowledge and warrant that there exists no other written or oral understanding, agreements or assurances with respect to such matters except as are set forth herein. Unless expressly stated, this agreement confers no rights on any person that is not a party hereto.

13.11 Authority to Sign. The person signing this agreement on behalf of each party warrants that he/she has the authority to do so and to bind each party to this agreement and all the terms and conditions contained herein.

13.12 Relationship of Parties. Nothing contained herein shall be deemed or construed by the parties hereto, or by any third party, as creating the relationship of principal and agent, partners, joint venturers or any other similar such relationship between the parties hereto.

13.13 No Third Party Beneficiary. This agreement inures to the benefit of and obligates only the parties executing it. No term or provision of this agreement shall benefit or obligate any person or entity not a party to it. The parties hereto shall cooperate fully in opposing any attempt by any third person or entity to claim any benefit, protection, release or other consideration under this agreement.

13.14 Governing Law. This agreement shall be construed and interpreted in accordance with the laws of the State of Texas, together with any applicable local and federal laws.

13.15 Venue. The parties hereto agree that (i) this agreement shall be enforceable in El Paso County, Texas; and (ii) exclusive venue for any action (or alternative dispute resolution process) pursuant to, arising from or related to this agreement shall lie in El Paso County, Texas.

13.16 No Waiver of Governmental Immunity. The parties reserve, and do not waive, their respective rights of sovereign immunity and similar rights and do not waive their rights under the Texas Tort Claims Act. The parties expressly agree that neither party waives, nor shall be deemed hereby to waive, any immunity or defense that would otherwise be available to it against claims arising in the exercise of its powers or functions or pursuant to the Texas Tort Claims Act or other applicable statutes, laws, rules, or regulations.

Signed on the dates indicated below to be effective as of the Effective Date first written above.

2/25/11
Date Signed

**TEXAS HISTORICAL
COMMISSION**

By: Mark Wolfe
Mark Wolfe, Executive Director
Texas Historical Commission
LESSEE

Date Signed

THE CITY OF EL PASO, TEXAS

By: _____
Joyce A. Wilson, City Manager
LESSOR

2/28/11
Date Signed

APPROVED AS TO FORM:

Cynthia Osborn
Cynthia Osborn
Assistant City Attorney

2/28/11
Date Signed

APPROVED AS TO CONTENT:

Jay Banasiak
Jay Banasiak, Director
Mass Transit Department

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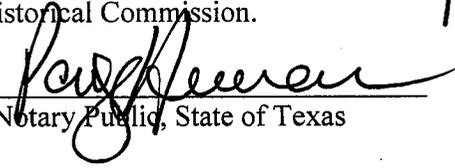
STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on this _____ day of _____, 2011, by Joyce A. Wilson, City Manager of the City of El Paso.

Notary Public, State of Texas

STATE OF TEXAS)
)
COUNTY OF Travis)

This instrument was acknowledged before me on this 25 day of February, 2011, by Mark Wolfe, Executive Director – Texas Historical Commission.



Notary Public, State of Texas

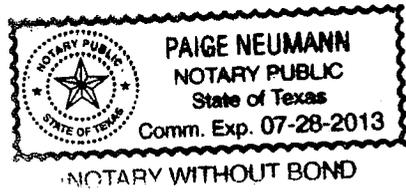
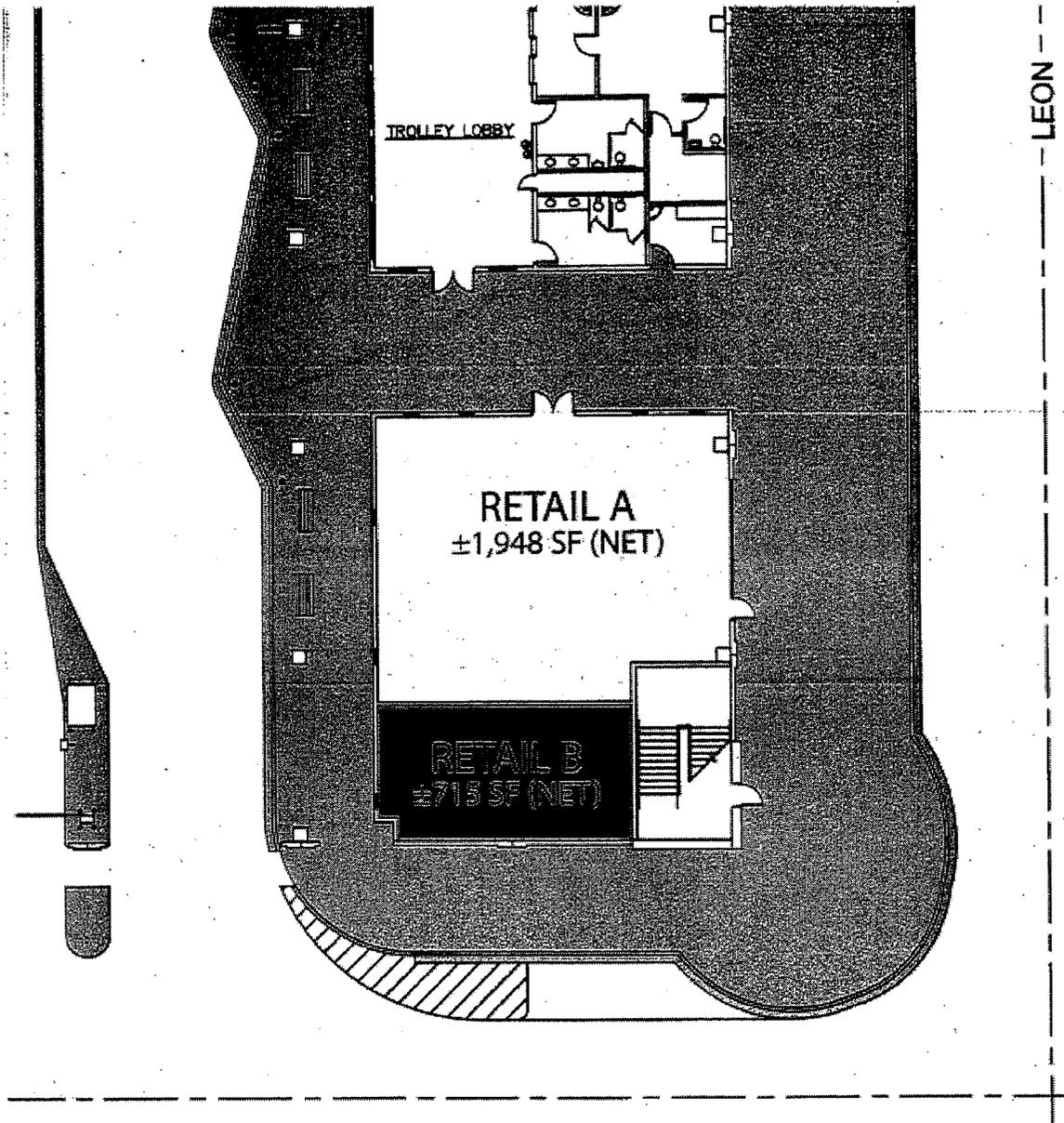


EXHIBIT A
THE "PROPERTY"



UNION PLAZA TRANSIT
TERMINAL/PARKING GARAGE

EL PASO, TEXAS

EXHIBIT B

Federal Transit Administration Federal Clauses Federal Funding Requirements

Prohibited Uses

Lessee and its Sublessees shall not conduct operations in or on the Leased Premises in a manner that in the judgment of the Director:

- A. Adversely or materially interferes with the Lessor's exercise of satisfactory continuing control over the use of the premises to carry out the intended purpose of providing public transportation.
- B. Adversely or materially interferes with the Lessor's right to safely conduct operations on the premises for the intended purpose of providing public transportation.
- C. Adversely or materially interferes or would be likely to interfere with the reasonable use by others of common facilities at the Transfer Center;
- D. Hinders or would be likely to hinder police, firefighting or other emergency personnel in the discharge of their duties;
- E. Would or would be likely to constitute a hazardous condition at the Transfer Center;
- F. Would or would be likely to increase the premiums for insurance policies maintained by Lessor unless such operations are not otherwise prohibited hereunder and Lessee pays the increase in insurance premiums occasioned by such operations;
- G. Would involve any illegal purposes.

Satisfactory Continuing Control

Notwithstanding any other provisions of this Agreement, if at any time Lessor, in its sole discretion, requires all or any part of the Leased Premises hereunder for any Transfer Center purpose including, but not limited to, Transfer Center renovations, enlargements, or revisions, Lessor, upon ninety (90) days written notice to Lessee, shall terminate this Agreement with respect to those portions of the Leased Premises so required.

Non-Discrimination

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 Leased Premises for a purpose for which a Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, the 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, age, disability, creed, color, sex or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of the Leased Premises.
- C. That in the construction of any improvements on, over, or under the Leased Premises and the furnishing of services thereon, no person on the grounds of race, creed, color, sex or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination.
- D. That Lessee shall use the Leased 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 Right 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. That, in the event of breach of any of the above nondiscrimination covenants, Lessor shall have the right to terminate this Agreement and re-enter and repossess the Leased Premises and the improvements thereon, and hold the same as if said Agreement had never been made or issued.

Affirmative Action

Lessee assures it will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to insure that no person shall, on the grounds of race, color, sex, or national origin be excluded from participating in or receiving the services or benefits of any program of activity covered 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, or otherwise applicable to persons leasing premises from Lessor of El Paso. Lessee assures that it will require that its covered suborganizations, including but not limited to 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 suborganizations including but not limited to Sublessees, to the same effect.

Conflict of Interest

No employee, officer, or agent of the Lessor shall participate in selection, or in the award or administration of an agreement if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

1. The employee, officer or agent.
2. Any member of his immediate family,
3. His or her partner, or

4. An organization which employs, or is about to employ, has a financial or other interest in the firm selected for award.

The Lessor's officers, employees, or agents shall neither solicit nor accept gratuities, favors or anything of monetary value from the Lessee, potential contractors, or parties of subcontracts.

Debarred Bidders

The Lessee, including any of its officers or holders of a controlling interest, is obligated to inform the Lessor whether or not it, or any of its subcontractors or agents, is or has been on any debarred bidders' list maintained by the United States government. Should the Lessee be included on such a list during the performance of this Project, it shall so inform the Lessor. The Lessee hereby certifies that it and its subcontractors are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from any of the covered transactions by any Federal Department or agency.