

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

DEPARTMENT: Airport

AGENDA DATE: April 30, 2013

CONTACT PERSON NAME AND PHONE NUMBER: Monica Lombraña, A.A.E. -780-4793

DISTRICT(S) AFFECTED: All

SUBJECT:

Resolution authorizing the City Manager to sign a License Agreement by and between the City of El Paso (City) and United Service Organizations (USO) Inc., which will allow a USO-sponsored military lounge at the El Paso International Airport (EPIA) for a period to begin May 10, 2013 and expire on May 31, 2017, to be utilized by United States military personnel while traveling. There is a mutual option to extend the agreement beginning on June 1, 2017; the term shall automatically be renewed and extended on a month-to-month basis upon the same terms and conditions as provided herein.

The rental rate is \$10.00/year.

BACKGROUND / DISCUSSION:

USO and the City desire to enter into a License Agreement for premises located at EPIA's terminal building. USO will manage the military lounge and staff with volunteers, to be available to welcome and assist the United States military personnel while traveling in El Paso, Texas.

PRIOR COUNCIL ACTION:

No

AMOUNT AND SOURCE OF FUNDING:

N/A

BOARD / COMMISSION ACTION:

N/A

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

DEPARTMENT HEAD:



(If Department Head Summary Form is initiated by Purchasing, client department should sign also)

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 a License Agreement by and between the City of El Paso and United Service Organizations, Inc. which will allow an USO-sponsored military lounge at the El Paso International Airport Terminal to be used by United States military personnel while traveling.

Dated this ____ day of _____ 2013.

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, A.A.E.
Director of Aviation

LICENSE AGREEMENT

This License Agreement (License) is made this _____ day of _____, 2013, by and between the City of El Paso (Licensor) and United Service Organizations, Inc. (Licensee).

WHEREAS, Licensor owns and operates the El Paso International Airport, located in the County of El Paso, State of Texas, (“Airport”);

WHEREAS, Licensee is a national organization supporting United States military personnel, and

WHEREAS, Licensor deems it advantageous to itself and to its operation of the Airport to grant a license to Licensee for a USO-sponsored military lounge that will provide comfort to United States military personnel while traveling.

NOW THEREFORE, in consideration of the mutual covenants and agreements herein set forth, Licensor and Licensee agree and covenant as follows:

1. Use of Space. The area to be used as a USO-sponsored military lounge and a related storage area is that depicted on Attachment “A”, attached hereto and made a part hereof (the “Premises”). The Premises shall be used only as a USO-sponsored military lounge that will provide comfort to United States military personnel while traveling. The Premises can be used for no other purpose without advance written approval of the Director of Aviation (the “Director”), which approval may be denied for any reason.
2. Term. The term of this License will begin on May 10, 2013 and will end on May 31, 2017, unless sooner terminated or extended as provided herein.
3. Extension of Term. Unless this License has been sooner terminated in accordance with the provisions hereof, the Licensor and Licensee hereby agree that beginning on June 1, 2017, the term shall automatically be renewed and extended on a month-to-month basis upon the same terms and conditions as provided herein, except that the monthly rental payment will be as identified in Paragraph 4 of this License. However, any said extended term beyond June 1, 2017, shall be terminable by either party at the end of any month by giving at least thirty (30) days prior written notice to the other party of its intention to terminate.
4. Rental Payment. Annual rental of the Premises shall be \$10.00 per annum, due on May 10, 2013, and thereafter on or before June 1 of each year thereafter. If Licensee becomes a month to month tenant, the monthly rental will be \$1 per month.

5. Public Utilities Services. The costs of providing water and sewer, and electric power services to the Premises are included in the Rent charged to Licensee for the Premises.
6. Information Services. Licensor will provide a shared-use, in-building, secured wireless network Digital El Paso, which is a service provided free in the Airport Terminal.
7. Parking. Licensor will provide complimentary parking only while on duty to Licensee that will permit Licensee's volunteers to park private vehicles in the Airport's Employee East Parking lot. In order to receive complimentary parking, Licensee's volunteers must have Airport-issued identification badges.
8. Airport Security. Licensee shall comply with the Airport Security Plan and all other airport security regulations as adopted or required by the TSA or other Governmental Authorities from time to time. If a violation of the Airport Security Plan or such other airport security regulations occurs as a result of the acts or omissions of an employee, volunteer, agent, representative, contractor or subcontractor of Licensee in any manner or form at any time during the Term, Licensee immediately shall remedy such violation and assist the Airport, TSA or other Governmental Authorities in remedying such violation, regardless of the circumstances.
9. Identification Badges and Security Clearances,
 - (a) Each employee or volunteer of Licensee or their respective contractors or subcontractors who requires access to the Sterile Area in the performance of his duties must first obtain a Sterile Area Identification Badge. Prior to the issuance of a Sterile Area Identification Badge to any individual, the applicant must submit to fingerprinting for the purposes of undergoing a criminal history records check that will determine whether such individual has, within the last ten (10) years, been convicted of, or found innocent by reason of insanity with respect to, one of twenty-eight (28) disqualifying crimes. In accordance with TSR 1542 and Public Law 106-528, the results of this criminal history records check will be used as a determining factor for granting permanent unescorted Sterile Area access privileges at the Airport. In addition to the required criminal history records check for access to the Sterile Area, each individual applying for access thereto must attend a required security training class sponsored by Licensor before such identification badge will be issued. If the work to be completed by a particular individual is of limited duration and Licensee or any of their respective contractors, subcontractors, or volunteers has an employee or volunteer with a Sterile Area Identification Badge, as required, available, an individual without the required Sterile Area Identification Badge may be escorted within the Sterile Area, as long as the individual with the

required Sterile Area Identification Badge has escort privileges and remains with such escorted individual at all times and is able to control him.

- (b) The Licensee shall be responsible for sponsoring (i.e., signing applications for identification badges) for all necessary badges. Licensee shall provide to Licensor notice of the names and specimen signatures for each Licensee manager sponsored by Licensee. An employee or volunteer of Licensee who must receive a Sterile Area Identification Badge to perform his duties may not begin work until the required Sterile Area Identification Badge has been issued. A person who possesses a Sterile Area Identification Badge must display it at all times while on the premises of the Airport.
- (c) Licensor reserves the right (i) to confiscate or suspend an Airport-issued identification badge of any person allegedly involved in any of the criminal acts enumerated under 49 C.F.R. Part 1542 or for a violation of the Airport Security Plan or other airport security regulations applicable to the Airport; and (ii) to permanently revoke an Airport-issued identification badge of any person upon a guilty or nolo contendere plea or probation before final disposition of any such criminal charges. Licensor, the TSA and other security personnel may challenge any person in the Sterile Area who is not properly identified by an Airport-issued identification badge, and, if positive identification or association cannot be made, such person may be escorted from the Sterile Area.
- (d) All Airport-issued identification badges are the property of Licensor and, upon the expiration or earlier termination of the Term, the termination of the employment or resignation of any employee or volunteer of Licensee or any of their respective contractors or subcontractors issued to employees or volunteers of Licensee or any of their respective contractors or subcontractors must be returned to Licensor. In addition, the holder of a lost Airport-issued identification badge is responsible for the replacement cost thereof. The issuance of Airport-issued identification badges is subject to the completion of such applications and conditions as Licensor may require from time to time. Any access gate or door found to be unsecured, or any entry by an unauthorized person(s) as a result of Licensee's failure to comply, or to cause compliance by any of their respective contractors or subcontractors, with the Rules and Regulations may subject Licensee to a TSA imposed fine of up to Eleven Thousand and 00/100 Dollars (\$11,000.00) per occurrence, and/or suspension or revocation of the violator's Airport-issued identification badge.

In the event Licensor determines that any fine or penalty has been imposed upon Licensor as a result of the failure of Licensee or any of

their respective contractors, subcontractors, or volunteers to comply with Applicable Laws, Licensee shall pay such fine or penalty or reimburse Licensor therefor upon demand by Licensor. Licensee shall monitor compliance by its contractors and subcontractors with the requirements for identification badges and security clearances and the screening of goods, products, equipment, materials and supplies of such contractors and subcontractors.

10. Knowledge of the Airport. Employees or volunteers of a Licensee are expected to be able to assist Airport users with wayfinding within the Airport. As such, Licensee shall (i) cause its employees or volunteers to have information regarding the locations of concessions, restrooms, elevators, airlines, gates, information desks and other facilities within the Airport Terminal and to provide such information upon request and with courtesy and dispatch, and (ii) provide all of its employees or volunteers with a list of emergency and other important telephone numbers as other means through which such employees or volunteers can respond to customers' requests for information.

11. Janitorial. Licensee will be entitled to use the public restrooms in the concourse area. The costs of providing janitorial services for cleaning the Premises are included in the Rent charged to Licensee for the Premises.

12. Condition. It is understood and agreed that Licensee, at the beginning of the Term as hereinabove set forth, takes and enters onto the Premises in their present condition "as is, where is" subject to the Licensor's maintenance and repair obligations described in Paragraph 13.

13. Maintenance and Repair. Licensor will be responsible for maintenance within the Premises except for those items of personal property owned by Licensee. Licensor will not be responsible for the maintenance nor repair of personal property owned by Licensee. Heating and air conditioning, lighting, electric power and water and sewer services provided to the Premises will be supplied by Licensor without additional charge.

Licensor's responsibilities for maintenance within the Premises include the following:

- (a) Sufficient heating and air conditioning system to maintain inside temperature in the range from a low of 66° during the heating season to a high of 80° at all other times.
- (b) Repainting of walls as deemed necessary by Licensor.
- (c) Repairs to electrical distributions.
- (d) Repairs to HVAC units, including VAV's, diffusers, ductwork, thermostats, and the like.

- (e) Structural repairs and cosmetic and functional repairs to non-personal property items such as foundation, walls, ceilings, floors, doors, windows and roof as deemed necessary by Licensor.

Should maintenance or repair be necessary due to damage caused by the negligence or misconduct of Licensee's employees, volunteers, agents, contractors or visitors, Licensor will make the required repairs and bill the Licensee for reimbursement. Maintenance related to normal wear and tear is supplied by Licensor at no additional charge.

Except as noted above, during the Term and any renewal or extension thereof, Licensor will keep the Premises in good repair and condition, to the end that all facilities which it is required to maintain are kept in operative condition. Licensee is responsible for damages arising from the negligence of its employees, volunteers, agents and invitees. Licensor reserves the right to enter and inspect the Premises at reasonable times, and to make necessary repairs thereto.

14. Furnishings, Finishes, and Fixtures. Licensor has provided furnishings, finishes, and fixtures (including light fixtures) in the Premises and an inventory of the furnishings, finishes and fixtures (including light fixtures) is identified in Attachment "B", attached hereto and made a part hereof. Licensee will promptly notify the Director if any furniture and fixtures are in need of repair or maintenance. If any furnishings, finishes and fixtures (including light fixtures) are damaged and cannot be repaired, the Director, in her sole discretion, will decide whether the damaged furnishing, finishes, or fixture will be repaired or replaced. Licensee will also return the furnishings, finishes and fixtures (including light fixtures) as identified in Attachment "B" to Licensor at the termination of its occupancy of the Premises, in good condition, ordinary wear and tear excepted.

15. Licensee's Personal Property. Licensee may install its furnishings, finishes, and fixtures (including light fixtures) ("Personal Property") in the Premises, only with the Director's prior written approval. At the termination of its occupancy of the Premises, Licensee shall remove its Personal Property; provided however, that upon removal Licensee shall restore the Premises to their original condition, ordinary wear and tear excepted.

Licensee may during the Term and any renewal or extension thereof, with the Director's prior written consent and approval, make alterations and erect signs in or upon the Premises. Any fixtures or signs so placed in or attached to the Premises under this License shall be and remain the property of Licensee and shall be removed therefrom, and the Premises restored to their original condition, reasonable wear and tear excepted, by Licensee prior to the expiration or earlier termination of the Term or any renewal or extension thereof, or within thirty (30) days thereafter.

16. Compliance with Laws. During the term of this License, Licensee shall at all times fully and promptly observe, obey and comply with all statutes, laws, ordinances, orders, rules, regulations and standards, whether now in effect or hereinafter enacted, adopted or promulgated by Licensor, its Airport, any municipal,

state or federal agency, or any other lawful authority having jurisdiction over the Premises, the operation of the Airport, or the business conducted by Licensee at or from the Premises, including, but not limited to, those relating to the safety, cleanliness, occupancy and use of the Premises, to the nature, character and manner of operation of the business conducted in, at or from said Premises, and to the conduct of Licensee's agents and employees or volunteers while on Airport property.

17. Amendment. This License may not be modified, discharged or changed in any respect whatsoever, except by a further agreement in writing executed by Licensor and Licensee.

18. **Indemnification**. Licensee shall protect, defend, indemnify and hold the Licensor, its officers, and employees completely harmless from and against any and all liabilities, demands, suits, claims, losses, fines or judgments arising by reason of the injury or death of any person or damage to any property, including all reasonable costs for investigation and defense thereof (including but not limited to attorney's fees, court costs, and expert fees), of any nature whatsoever arising out of or incident to this License or Licensee's use of the Premises or the acts or omissions of Licensee's officers, employees, agents, its invitees, including claims and damages arising in whole, or in part, from negligence of Licensor. Licensor shall give Licensee reasonable notice of any such claims or actions. Licensee, in carrying out its obligations hereunder, shall use counsel reasonably acceptable to Licensor. The provisions of this section shall survive the expiration or earlier termination of this License.

19. Insurance. Licensee agrees to maintain Comprehensive Commercial General Liability in an amount of not less than One Million Dollars (\$1,000,000) combined single limit during the term of this License and any renewals thereof. Such insurance policies shall name Licensor, its officers, and its employees as additional insureds amid joint payee to the full extent of Licensee's insurance coverage but in no event less than the required minimum coverage limit amount.

Licensee shall also obtain and maintain continuously in effect at all times during the term hereof, at its sole expense, Property Damage insurance protecting Licensor, its officers, and its employees against liability which may occur from any actions by Licensee, Licensee's employees, agents or representatives. Property Damage Insurance shall be in the amount of at least \$500,000, covering property damage per occurrence. Such policy shall name the Licensor, its officers, and its employees as additional insureds.

Licensee shall also obtain and maintain continuously in effect at all times during the term hereof, at its sole expense, Comprehensive Automobile Liability insurance protecting Licensor against liability which may occur from or by the operating of automobiles by Licensee, or by Licensee employees, agents or representatives, hereunder. Comprehensive Automobile Liability insurance shall be in the amount of at least \$500,000 and have a deductible of no larger than \$100,000 for personal injury or death of any one person in any one accident; the total sum of at least

\$1,000,000 for personal injury or death for all persons in any one accident; and the sum of at least \$500,000 covering property damage per occurrence. Such policy shall name Licensor as an additional insured.

Licensee agrees that all insurance policies shall contain a severability of interest or cross-liability provision endorsement, which shall read generally as follows:

In the event of one of the assureds incurring liability to any other of the assureds, this policy shall cover the assured against whom claim is or may be made in the same manner as if separate policies had been issued to each assured. Nothing contained herein shall operate to increase the limits of liability.

Licensee agrees that all insurance policies shall provide that they shall not be altered or cancelled without thirty (30) days advance written notice to Licensor. Such insurance must provide that it shall be considered primary insurance as respects any other valid and collectible insurance, or self-insured retention, or deductible Licensor may possess. Any other insurance or self-insured retention of Licensor shall be considered excess insurance only.

Licensor shall have the right to change the insurance coverage and the insurance limits required of Licensee, without any cost to Licensor, if such changes are recommended or imposed by Licensor's insurers. Licensee shall obtain all insurance required from an insurance company or companies licensed to do business in the State of Texas. The insurance company must be acceptable to Licensor.

Approval may be denied a company based on its Best rating or other indication of financial inadequacy. Licensee shall provide to Licensor such evidence of compliance with Licensor's insurance requirements as Licensor may request. At a minimum, Licensee shall provide, at the commencement of this License, a Certificate of Insurance.

All such certificates shall be completed to show compliance with Licensee's obligations hereunder, specifically as to the indemnification and notice provisions, and a copy of the Agreement. Licensor may also require copies of the declaration page, insurance policy, and endorsements thereto.

If Licensee shall at any time fail to insure or keep insured as aforesaid, Licensor may do all things necessary to effect or maintain such insurance and all monies expended by it for that purpose shall be paid by Licensee to Licensor not later than ten (10) days after the premium or premiums are paid by Licensor. If any insurance policies required hereunder cannot be obtained for any reason, Licensor may require Licensee to cease any and all operations until coverage is obtained. If such insurance coverage is not obtained within a reasonable period of time, to be determined solely by Licensor, then Licensor may terminate this License.

20. Assignment. Licensee shall not assign or sublet its right to the use of the Premises.

21. Termination. If Licensee violates any of the terms of this License, the Licensor may terminate, after notice and an opportunity for Licensee to cure, Licensee's right to use the Premises, and Licensee shall immediately vacate the Premises without any right, recourse or action against Licensor. Licensor may also terminate this License at any time for any reason after providing thirty (30) days written notice to Licensee.

APPROVED this ____ day of _____, 2013.

CITY OF EL PASO

Joyce A. Wilson
City Manager

APPROVED AS TO FORM:

Theresa Cullen
Theresa Cullen
Deputy City Attorney

APPROVED AS TO CONTENT:

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

AGREED AND ACCEPTED:

United Service Organizations, Inc.

Alan J. Reyes
Senior Vice President, Operations

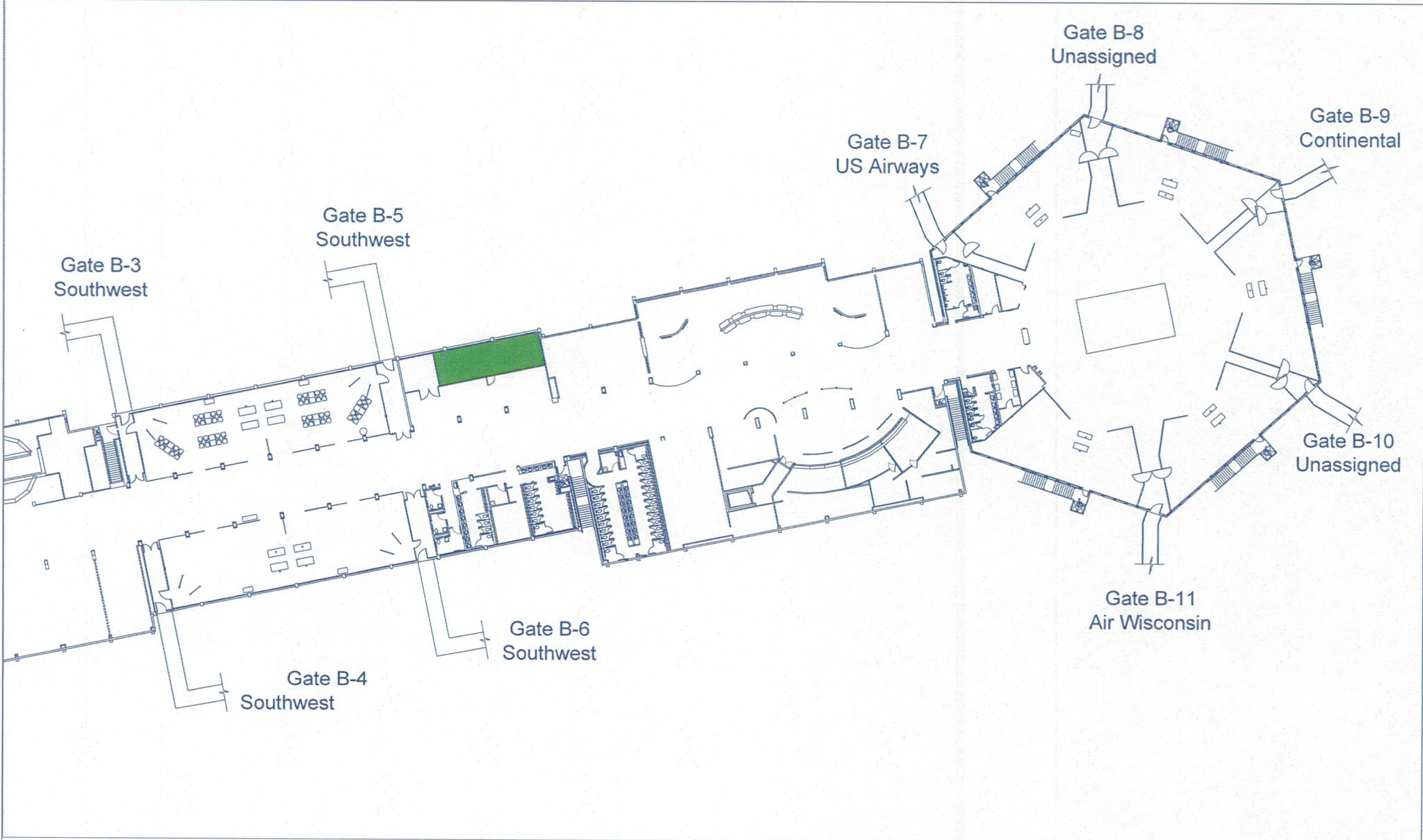
Date: _____



Military Lounge Storage El Paso International Airport

Level-1

Exhibit A Page 1



ATTACHMENT B

(Inventory of furniture, fixtures, etc.)

1. Furniture and accessories

- Western sofa
- Western love seat
- Swivel chair
- End table
- Entertainment center
- Pub table w/2 bar stools
- Snack table
- Bookcase
- Tall bookcase
- Desk
- Charging station w/2 bar stools
- Sofa
- Love seat
- End table
- Refrigerator
- Sink and cabinet
- Coffee maker
- Decorations
- Lamps
- DVD Blue ray
- 50" TV
- 2 FIDs (had in stock)

2. Artwork

- "El Paso" artwork, 4' x 6'
- "Piñata" artwork, 30" x 40"
- "Truck" artwork, 30" x 40"
- "Mission" artwork, 30" x 40"

3. Signage

- Wall paper w/installation, 162.25" x 101.75"