

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

DEPARTMENT: Airport
AGENDA DATE: August 28, 2012
CONTACT PERSON: Monica Lombraña A.A.E., (915) 780-4793
DISTRICT(S) AFFECTED: All Districts

SUBJECT:

That the City Manager be authorized to sign a Lessors Approval of Sublease where the City of El Paso is "Lessor", TJW Aviation is "Lessee", and The Far West Texas & Southern New Mexico Trauma Regional Advisory Council dba BorderRAC is "Sub-Lessee". BorderRAC will sublease a portion of the property described as Portions of Lot 2 and 3 and all of Lot , Block 4, El Paso International Airport Tracts Unit 10, municipally known and numbered as 6805 Boeing Drive, El Paso, Texas from Sublessee.

BACKGROUND / DISCUSSION:

A June 1, 1990 Commercial Aviation Ground lease with Julie's Aircraft Service, Inc. was approved by City Council, and subsequently assigned to TJW Aviation on January 27, 2012. TJW Aviation is now requesting approval of a sublease agreement with BorderRAC, for the storage of hospital and emergency medical supplies along with disaster response equipment such as mobile medical unit trailers, communication equipment, and ambulance strike team supplies. City Council approval is requested, as per the original 1990 lease agreement, all subleases are subject to the consent of lessor.

PRIOR COUNCIL ACTION:

Council has approved prior subleases on:
10-31-2000 for Aviation Training Professionals, currently expired
03-13-2007 for WJN Corporation, currently expired

AMOUNT AND SOURCE OF FUNDING:

N.A. there is no City/Airport revenue or expense component with this approval

BOARD / COMMISSION ACTION: N/A

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

DEPARTMENT HEAD:



Monica Lombraña A.A.E.
Director of Aviation

RESOLUTION

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

That the City Manager be authorized to sign a Lessor's Approval of Sublease between the City of El Paso ("Lessor"), TJW Aviation LLC ("Lessee"); and The Far West Texas & Southern New Mexico Trauma Regional Advisory Council d/b/a BorderRAC ("Sublessee") regarding a portion of the premises located at 6805 Boeing Drive, Suite A, El Paso, Texas 79925.

ADOPTED this the ____ day of _____ 2012.

THE 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

STATE OF TEXAS §
 § LESSOR’S APPROVAL OF SUBLEASE
COUNTY OF EL PASO §

THIS Lessor’s Approval of Sublease is made and entered into by and among the City of El Paso (“Lessor”), TJW Aviation, LLC (“Lessee”) and the Far West Texas & Southern New Mexico Trauma Regional Advisory Council d/b/a BorderRAC (“Sublessee”), effective the ____ day of _____, 2012.

WHEREAS, Lessor entered into a General Aviation Commercial Ground Lease dated June 1, 1990; as amended by the First Amendment dated March 24, 1992; as assigned to Juliusson Family Limited Partnership pursuant to the Lessor’s Approval of Assignment dated January 27, 2004; and subsequently assigned to TJW Aviation, LLC pursuant to the Lessor’s Approval of Assignment effective January 27, 2012 (collectively referred to as the “Lease”) covering the following described property:

A portion of Lots 2 and 3, Block 4, El Paso International Airport Tracts, Unit 10, El Paso, El Paso County, Texas, containing 96,715.44 square feet, or 2.22 acres of land, more or less and more particularly described by metes and bounds on Exhibit “A” attached hereto and incorporated herein by reference, and municipally known and numbered as 6805 Boeing Dr., El Paso, Texas (“Premises”).

WHEREAS, Lessee desires to sublease a portion of the Premises to Sublessee, which will store hospital and emergency medical supplies and disaster response equipment;

WHEREAS, the Lease requires the prior written consent of the Lessor for a sublease of all or part of the Premises;

WHEREAS, the Director of Aviation is recommending that the sublease be approved pursuant to Section 1.06 of the Lease, which allows the Premises to be used for a purpose other than a General Aviation Commercial Activity, because the identified use is storage of hospital and emergency medical supplies and disaster response equipment and such supplies and equipment could be needed at the El Paso International Airport (“EPIA”), and

WHEREAS, Lessor is willing to approve the proposed sublease subject to the terms and conditions set forth in this Lessor’s Approval of Sublease, and accepted and agreed to by Lessee and Sublessee;

NOW, THEREFORE, in consideration of the mutual covenants of the parties, Lessor, Lessee, and Sublessee agree as follows:

1. **Acceptance of Lease Terms and Covenants.** Sublessee acknowledges that it has been provided with a copy of the Lease and agrees to accept and abide by all the terms, covenants, and conditions of the Lease.
2. **Lease Terms Conflicting with State or Federal laws.** To the extent any clause in this Lessor's Approval of Sublease or the Lease conflicts with the applicable Texas and/or United States law(s) or regulation(s), such clause is void and unenforceable. By executing an agreement which contains the conflicting clause(s), Sublessee makes no representations or warranties regarding the enforceability of such clause(s) and Sublessee does not waive the applicable Texas and /or United States law(s) or regulations(s) which conflict with the clauses(s).
3. **Subleased Premises.** Sublessee acknowledges that the subleased premises located at 6805 Boeing Drive, Suite A, El Paso, El Paso County, Texas are described as 10,000 square feet more particularly outlined on the Hangar Floor Plan attached hereto as Exhibit "A-1" and incorporated herein by this reference.
4. **Permitted Use of Premises.** Sublessee acknowledges that the subleased premises will not be used for any activity other than for the storage of hospital and emergency medical supplies along with disaster response equipment such as mobile medical unit trailers, communications equipment and ambulance strike team supplies. Sublessee also acknowledges that its use of the subleased premises shall be further limited by those restrictions and prohibitions enumerated within the Lease.
5. **Proof of Insurance.** Sublessee has provided Lessor with a certificate of insurance to evidence compliance with the insurance requirements of the Lease and understands and agrees that Lessor's consent is expressly contingent upon Sublessee maintaining the required levels of insurance and providing proof to Lessor. Failure to comply with the insurance requirements may result in a revocation of the consent granted herein and termination of this Lessor's Approval of Sublease, as well as the sublease itself.
6. **Reporting Requirements.** As additional consideration for Lessor's approval, Sublessee agrees that it shall furnish to Lessor, upon ten (10) days written request by the Director of Aviation and at no cost to Lessor, an accurate report of Sublessee's operations at EPIA during the preceding month. The report shall include, but not be limited to, any information related to the following: (i) the amount of hospital and emergency medical supplies and disaster response equipment, cargo, freight, or mail loaded or off-loaded from any aircraft by Sublessee, its customers, contractors, or agents; and (ii) the type of aircraft and name of aircraft operator handled. Sublessee agrees to provide this information, if applicable, in such detail and on the form as prescribed by the Director of

Aviation. Failure to comply with the reporting requirements may result in a revocation of the Lessor's consent to the sublease and termination of the Lessor's Approval of Sublease and the Sublease.

7. **Lessee's Obligations.** Notwithstanding any provision to the contrary in the Sublease, this Lessor's Approval of Sublease shall in no way release the Lessee or any person or entity claiming by, through, or under Lessee, including Sublessee, from any of its covenants, agreements, liabilities, and duties under the Lease, as same may be amended from time to time. Lessee shall remain liable to Lessor for any defaults under the Lease, whether such default is caused by Lessee or Sublessee or anyone claiming by or through either Lessee or Sublessee. The foregoing shall not be deemed to restrict or diminish any right which Lessor may have against Lessee or Sublessee, in law or in equity, for violation of the Lease.
8. **Purpose.** This Lessor's Approval of Sublease does not constitute approval by Lessor of any of the provisions of the Sublease document or agreement; nor shall the same be construed to amend the Lease in any respect. The sole purpose of the Sublease shall be to set forth the rights and obligations between Lessee and Sublessee. In no event, however, shall Lessor be deemed to be in privity of contract with Sublessee or owe any obligation or duty to Sublessee under the Lease or otherwise; any duties of Lessor under the Lease being in favor of, for the benefit of, and enforceable solely by Lessee.
9. **Non-Waiver.** Nothing herein shall be deemed a waiver of any of Lessor's rights under the Lease. This Lessor's Approval of Sublease does not end the need for Lessor's approval of any future subleases or for any other matter for which Lessor's approval is required under the Lease or otherwise.
10. **Subordinate Rights.** The Sublease is, in all aspects, subject and subordinated to the Lease as the same may be amended. The terms of the Lease shall prevail in the case of any conflict between the provisions of the Lease, Sublease, or this Lessor's Approval of Sublease.

If, at any time prior to the expiration of the term of the Sublease, the Lease shall terminate or be terminated for any reason (or Lessee's right to possession shall terminate without termination of the Lease), this Lessor's Approval of Sublease and the Sublease shall simultaneously terminate.

11. **Authorized Parties.** The persons signing this Lessor's Approval of Sublease on behalf of the Lessee and Sublessee represent and warrant that they have the authority to legally bind the Lessee and Sublessee to the provisions of this instrument. Further, Lessee and Sublessee acknowledge and agree to be bound by all the terms and conditions of this Lessor's Approval of Sublease as set forth herein.

LESSEE: TJW AVIATION LLC

[Handwritten Signature]

Printed Name: Timothy J. Wilson
Title: President and Manager

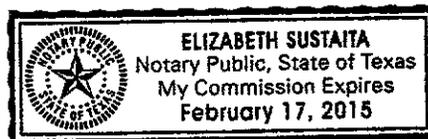
LESSEE'S ACKNOWLEDGEMENT

THE STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on this 20th day of August, 2012, by Timothy J. Wilson as President and Manager of TJW Aviation LLC. (Assignee)

Elizabeth Sustaita
Notary Public, State of Texas

My Commission Expires:
February 17, 2015



[SIGNATURES CONTINUE ON THE FOLLOWING PAGE]

**SUBLESSEE: THE FAR WEST TEXAS
& SOUTHERN NEW MEXICO
TRAUMA REGIONAL ADVISORY
COUNCIL**, a Texas non-profit corporation,
d/b/a **BORDERRAC**

Wanda L. Helgesen

Printed Name: Wanda L. Helgesen

Title: Executive Director

ACKNOWLEDGMENT
SUBLESSEE

THE STATE OF TEXAS)
COUNTY OF EL PASO)
~~TRAVIS~~

This instrument was acknowledged before me on this 20 day of AUGUST, 2012,
by Wanda L. Helgesen as Executive Director of The Far West Texas & Southern New
Mexico Trauma Regional Advisory Council d/b/a BorderRAC. (Sublessee).

Icela Rodriguez
Notary Public, State of TEXAS

My Commission Expires:
2-19-2013

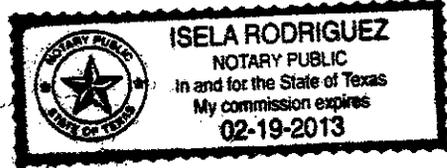


Exhibit A

PROPERTY DESCRIPTION

DESCRIPTION OF A PARCEL OF LAND BEING A PORTION OF LOT 2 AND LOT 3, BLOCK 4, EL PASO INTERNATIONAL AIRPORT TRACTS, UNIT 10, EL PASO COUNTY, TEXAS AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING AT A CITY MONUMENT LOCATED AT THE INTERSECTION OF CENTERLINES OF AMERICAN DRIVE AND PEPPER COURT, EL PASO INTERNATIONAL AIRPORT TRACTS, UNIT 10, EL PASO COUNTY, TEXAS, THENCE SOUTH 81°51'55" EAST ALONG THE CENTERLINE OF AMERICAN DRIVE, A DISTANCE OF 200.00 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE LEFT; THENCE 295.38 FEET ALONG THE ARC OF SAID CURVE AND SAID CENTERLINE HAVING A RADIUS OF 786.96 FEET, A CENTRAL ANGLE OF 21°55'21", AND A CHORD BEARING SOUTH 118°27'03" EAST A DISTANCE OF 255.65 FEET, THENCE ALONG SAID CENTERLINE SOUTH 22°52'14" EAST A DISTANCE OF 75.91 FEET TO A POINT; THENCE DEPARTING SAID CENTERLINE NORTH 61°27'46" EAST A DISTANCE OF 34.00 FEET TO A BRIDGE NAIL FOUND ON THE EASTERLY RIGHT-OF-WAY OF SAID AMERICAN DRIVE AND BEING THE POINT OF BEGINNING;

THENCE NORTH 66°25'56" EAST A DISTANCE OF 228.23 FEET TO A 5/8" IRON ROD FOUND ON THE POINT OF CURVATURE OF A NON-TANGENT CURVE TO THE LEFT;

THENCE 246.57 FEET ALONG THE ARC OF SAID CURVE TO THE LEFT HAVING A RADIUS OF 381.07 FEET, A CENTRAL ANGLE OF 37°04'12", AND A CHORD BEARING SOUTH 42°20'42" EAST A DISTANCE OF 242.29 FEET TO A 5/8" IRON ROD FOUND;

THENCE SOUTH 29°22'07" WEST A DISTANCE OF 345.61 FEET TO A CHISELED "X" SET IN CONCRETE AT THE POINT OF CURVATURE OF A NON-TANGENT CURVE TO THE RIGHT AND BEING ON THE NORTH RIGHT OF WAY LINE OF BOEING DRIVE;

THENCE ALONG SAID RIGHT-OF-WAY, 19.49 FEET ALONG THE ARC OF SAID CURVE HAVING A RADIUS OF 1713.06 FEET, A CENTRAL ANGLE OF 0°33'07", AND A CHORD BEARING SOUTH 87°54'28" WEST A DISTANCE OF 19.49 FEET TO A CHISELED "X" SET IN CONCRETE ON;

THENCE DEPARTING SAID RIGHT OF WAY LINE NORTH 10°35'05" WEST A DISTANCE OF 30.05 FEET TO A BRIDGE NAIL SET;

THENCE NORTH 54°53'22" WEST A DISTANCE OF 52.05 FEET TO A BRIDGE NAIL SET;

THENCE NORTH 71°55'00" WEST A DISTANCE OF 61.90 FEET TO A CHISELED "X" SET IN CONCRETE AT THE POINT OF CURVATURE OF A NON-TANGENT CURVE TO THE LEFT AND BEING ON THE EAST RIGHT OF WAY LINE OF AMERICAN DRIVE;

THENCE ALONG SAID RIGHT-OF-WAY, 257.30 FEET ALONG THE ARC OF SAID CURVE HAVING A RADIUS OF 820.96 FEET, A CENTRAL ANGLE OF 1°33'19", AND A CHORD BEARING NORTH 15°12'34" WEST A DISTANCE OF 265.12 FEET TO A CHISELED "X" SET IN CONCRETE;

THENCE ALONG SAID RIGHT-OF-WAY NORTH 22°52'14" WEST A DISTANCE OF 25.00 FEET THE POINT OF BEGINNING AND CONTAINING IN ALL 96,714 SQUARE FEET OR 2.220 ACRES OF LAND MORE OR LESS.

KISTENMACHER ENGINEERING COMPANY, INC
6044 GATEWAY EAST BLVD, SUITE 300, EL PASO, TEXAS 79905 TELE (915)-778-4476
6335 GREENVILLE AVE., SUITE C, DALLAS, TEXAS 75206 TELE (214)-234-0011
DECEMBER 22, 2011

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