

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

DEPARTMENT: Aviation

AGENDA DATE: February 15, 2022

CONTACT PERSON NAME AND PHONE NUMBER: Sam Rodriguez, P.E. (915) 212-7301

DISTRICT(S) AFFECTED: 3

CITY STRATEGIC GOAL 1: Create an Environment Conducive to Strong, Sustainable Economic Development.

SUBJECT:

Resolution to authorize the City Manager to sign a "First Amendment to Operating Agreement," in substantially the form attached hereto, providing a one-year extension to those airlines having an existing "Operating Agreement" with the City of El Paso, provided that the subject airline is not in default of any of the terms of its Operating Agreement.

BACKGROUND / DISCUSSION:

The Department of Aviation is requesting approval of this item to add two additional one-year options to the current Airline Operating Agreement. This additional extension is required as the effects of the COVID-19 pandemic's drastic impact to the aviation industry renders this not the optimal time to enter into a new agreement.

The addition of this extension will allow for the continued operation of passenger and cargo airlines that currently have agreements in place with El Paso International Airport that were executed after August 31, 2017, the termination date of the original term of the agreement effective September 1, 2012. This amendment will allow operation through August 31, 2024. During this time, Department of Aviation management will be working with the airlines to negotiate and execute new agreements with a target start date of September 1, 2024.

PRIOR COUNCIL ACTION:

- October 9, 2012 – Approval of the current Airline Operating Agreement and Terminal Building Lease and a First Amendment to Operating Agreement as to form.

AMOUNT AND SOURCE OF FUNDING:

N/A: This is a revenue-generating item.

BOARD / COMMISSION ACTION:

N/A

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

DEPARTMENT HEAD:



Sam Rodriguez, P.E.
Chief Operations & Transportation Officer/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 "First Amendment to Operating Agreement," in substantially the form attached hereto, providing a one-year extension to those airlines having an existing "Operating Agreement" with the City of El Paso, provided that the subject airline is not in default of any of the terms of its Operating Agreement.

ADOPTED this ____ day of _____ 2022.

THE CITY OF EL PASO

Oscar Leeser
Mayor

ATTEST:

Laura D. Prine
City Clerk

APPROVED AS TO FORM:



Roberta A. Brito
Assistant City Attorney

APPROVED AS TO CONTENT:



Samuel Rodriguez, P.E.
Director of Aviation

STATE OF TEXAS)
)
)
COUNTY OF EL PASO)

**FIRST AMENDMENT TO
OPERATING AGREEMENT**

This First Amendment to the Operating Agreement (“**First Amendment**”) is by and between the City of El Paso (“**Lessor**”) and _____ (“**Lessee**”), a _____. For purposes of this First Amendment, all defined terms appear in boldface print when first defined.

WHEREAS, on _____, ____, the Lessor and Lessee entered into an Operating Agreement (“**Lease**”) for that certain property located inside or adjacent to the Terminal Building at the El Paso International Airport at 6701 Convair Road, El Paso, Texas (“**Leased Premises**”), as described in detail in the Lease; and

WHEREAS, the parties are reviewing and negotiating a new Operating Agreement and anticipate requiring a third one-year extension in order to fully negotiate the new agreement without having a lapse in the contractual relationship; and

WHEREAS, on March 27, 2020, the Centers for Disease Control and Prevention issued a Global COVID-19 Pandemic Notice, entitled Level 3, Avoid Nonessential Travel, which involves a virus that has caused worldwide travel restrictions and has resulted in a significant reduction in air travel, which has made entering into a new agreement untimely; and

WHEREAS, the COVID-19 pandemic is still affecting the aviation industry and may affect the industry for many months to come; and

WHEREAS, the parties wish to enter into this First Amendment to add a one-year extension.

NOW, THEREFORE, the parties agree as follows:

Section 1. ARTICLE 2 “TERM”, Section 2.02 Extension of the Lease is amended in its entirety to read as follows:

In the event Airline is not in default of any terms of this Agreement, the Term of this Agreement may be extended for three (3) one-year renewal periods, through the mutual written agreement of Airline and the City. To extend the term of this Agreement, the Director shall give written notice to Airline of City’s intent to extend the Agreement no less than three (3) months prior to the expiration of the term of the Agreement or any extension. If Airline is not willing to renew for the extension period, Airline will be released from its obligation to extend the Agreement term, provided it gives the Director written notice of its intent within thirty (30) days from the notification of the City’s intent to extend the term. During any extension period, the Agreement shall be extended on the

same terms and conditions, except Airline shall pay all rates, charges and provisions as set forth herein and in Title 14 and any applicable City Annual Budget Resolution.

Section 2. Except as amended in this First Amendment the terms of the Lease between the Lessor and Lessee shall remain in full force and effect.

(City Signatures on the Following Page)

IN WITNESS WHEREOF, the Lessor and Lessee have executed this First Amendment as of the date it is signed by the Lessor.

CITY OF EL PASO:

Tomás González, City Manager

Date: _____

APPROVED AS TO FORM:

Assistant City Attorney

APPROVED AS TO CONTENT:



Samuel Rodríguez, P.E.
Director of Aviation

ACKNOWLEDGMENT

STATE OF TEXAS §
 §
COUNTY OF EL PASO §

This instrument was acknowledged before me on the ____ day of _____, 2022, by Tomás González, as City Manager of the City of El Paso, Texas, on behalf of the City of El Paso, Texas.

Notary Public, State of _____

My Commission Expires:

(Lessee Signature Page Follows)

LESSEE(S):

ATTEST:

AIRLINE:

Signature

Signature

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

ACKNOWLEDGMENT

STATE OF _____ §

§

COUNTY OF _____ §

This instrument was acknowledged before me on the ____ day of _____, 2022, by _____, as _____, of _____, on behalf of said entities.

Notary Public, State of _____

My Commission Expires:
