

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

DEPARTMENT: El Paso International Airport

AGENDA DATE: January 19, 2021

PUBLIC HEARING DATE: January 19, 2021

CONTACT PERSON / PHONE NUMBER: Samuel Rodriguez, P.E., Director of Aviation – 915-212-7301

DISTRICT(S) AFFECTED: 2

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

SUBGOAL: Grow the core business of air transportation.

SUBJECT:

This Resolution is to authorize the City Manager to sign a Lessor's Approval of Assignment of Butterfield Trail Industrial Park Lease by and between the City of El Paso ("Lessor"), TV6-W, LLC ("Assignor"), and TV6 Holdings, LLC ("Assignee") for property described as Lot 1, Block 11, Butterfield Trail Industrial Park Unit Two, Foreign Trade Zone No. 68, City Of El Paso, El Paso County, Texas municipally known and numbered as 25 Butterfield Trail Blvd., El Paso, Texas. The remaining lease term is 24 years with two (2) five-year options. The site is 119,907 square feet at \$0.20 per square feet and the annual rent is \$23,981.40. All other terms and conditions remain the same.

BACKGROUND / DISCUSSION:

The current lease agreement expires June 30, 2044. If options are exercised, the expiration date is June 30, 2054.

PRIOR COUNCIL ACTION:

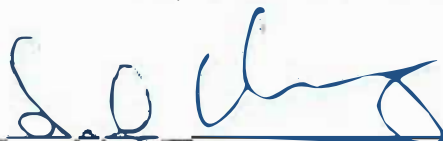
- July 1, 2004 – Butterfield Trail Industrial Park Lease between City of El Paso and W2001 TBT Real Estate Limited Partnership.
- November 22, 2004 – Ground Lessor's Estoppel Certificate to Column Financial, Inc.
- April 18, 2006 – Lessor's Approval of Assignment between W2001 TBT Real Estate Limited Partnership (Assignor) and Titan MAC Fund I, LP (Assignee) adopted.
- April 28, 2006 – Estoppel Agreement for Titan MAC Fund I, LP.
- September 25, 2012 – Lessor's Acknowledgment of Assignment of the BTIP Lease by and between the City of El Paso and PWR12MAC Industrial Portfolio Southwest LLC.
- February 11, 2013 – Lessor's Acknowledgment of Assignment of the BTIP Lease by and between the City of El Paso and PXP Texas; SOCAL TEXAS; & PEP TEXAS, LLC.
- January 27, 2015 – Lessor's Acknowledgment of Assignment of the BTIP Lease by and between the City of El Paso and Tower Assets Newco IX, LLC.
- April 21, 2015 – Lessor's Acknowledgment of Assignment of the BTIP Lease by and between the City of El Paso and TV6-W, LLC.

AMOUNT AND SOURCE OF FUNDING:

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

.....**REQUIRED AUTHORIZATION**.....

DEPARTMENT HEAD:



-Samuel Rodriguez, P.E., Director of Aviation

RESOLUTION

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

That the City Manager is authorized to sign a Lessor's Approval Assignment of Butterfield Trail Industrial Park Lease by and between the City of El Paso ("Lessor"), TV6-W, LLC ("Assignor"), and TV6 Holdings, LLC ("Assignee") for the following described property:

Lot 1, Block 11, Butterfield Trail Industrial Park Unit Two, Foreign Trade Zone No. 68, City of El Paso, El Paso County, Texas, municipally known and numbered as 25 Butterfield Trail Blvd., El Paso, Texas.

Dated this ____ day of _____ 2021.

CITY OF EL PASO

Oscar Leeser, Mayor

ATTEST:

Laura D. Prine
City Clerk

APPROVED AS TO FORM:



Leslie B. Jean-Pierre
Assistant City Attorney

APPROVED AS TO CONTENT:



Samuel Rodriguez, P.E.
Director of Aviation

STATE OF TEXAS §
 §
COUNTY OF EL PASO §

LESSOR'S APPROVAL OF ASSIGNMENT

WHEREAS, the City of El Paso ("Lessor") entered into a Butterfield Trail Industrial Park Lease ("Lease") dated June 15, 2004, with an effective date of July 1, 2004, by and between Lessor and W2001 TBT Real Estate Limited Partnership, a Delaware limited partnership, covering the following described leased premises:

Lot 1, Block 11, Butterfield Trail Industrial Park Unit Two, Foreign Trade Zone No. 68, City of El Paso, El Paso County, Texas, municipally known and numbered as 25 Butterfield Trail Blvd., El Paso, Texas

WHEREAS, on April 18, 2006, Lessor approved a Lessor's Approval of Assignment between the Lessor, W2001 TBT Real Estate Limited Partnership and Titan MAC Fund I, LP whereby Lessor approved and consented to the assignment of the Lease to Titan MAC Fund I, LP, a Texas limited partnership;

WHEREAS, on April 28, 2006, Titan MAC Fund I, LP executed a Deed of Trust, Security Agreement and Assignment of Rents recorded in the Real Property Records of El Paso County, Texas, as Instrument No. 20060039524 (the "Security instrument") for the benefit of Principal Commercial Funding, LLC ("Original Lender"), the predecessor-in-interest by one or more assignments to PWR12-MAC Industrial Portfolio Southwest LLC, a Delaware limited liability company, and encumbered the Lease;

WHEREAS, Titan MAC Fund I, LP defaulted under the terms of the Note (as defined in the Trustee's Assignment) and Deed of Trust;

WHEREAS, on July 3, 2012, PWR12-MAC Industrial Portfolio Southwest LLC, a Delaware limited liability company, was the highest bidder at Foreclosure Sale (as defined in the Trustee's Assignment) as evidenced by a Substitute Trustee's Deed and Bill of Sale recorded in the Real Property Records of El Paso County, Texas, as Instrument No. 20120050908 (the "Trustee's Deed"),

WHEREAS, in accordance with the terms of the Lease, PWR12-MAC Industrial Portfolio Southwest LLC has succeeded to all of Titan MAC Fund I, LP's rights, interests, duties and obligations under the Lease as of July 3, 2012 pursuant to the Substitute Trustee's Deed and Bill of Sale; and

WHEREAS, effective February 11, 2013 PWR12-MAC Industrial Portfolio Southwest LLC assigned its interest in the Lease to PXP Texas, LLC, a Delaware limited liability company, an undivided 50% interest; SoCal Texas, LLC, a Delaware limited liability company, an undivided 5.25% interest, and PEP Texas, LLC, a Delaware limited liability company, an undivided 44.75% interest;

WHEREAS, on January 27, 2015 the Lease was assigned to Tower Assets Newco IX LLC (“Assignor”) by that Lessor’s Acknowledgment of Assignment; and

WHEREAS, on April 21, 2015 the Lease was assigned to TV6-W, LLC (“Assignor”) by that Lessor’s Acknowledgment of Assignment; and

WHEREAS, Assignor has requested the Lessor’s approval and consent to an assignment of the Lease to TV6 Holdings, LLC.

NOW THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **CONSENT TO ASSIGNMENT.** Lessor hereby approves and consents to the assignment of the Lease from Assignor to TV6 Holdings, LLC. (“Assignee”), on the condition that Assignee assumes and becomes liable to pay any and all sums owing or becoming due Lessor under the terms of the Lease from and after the effective date of the assignment of the Lease to Assignee, and upon the further condition that Assignee agrees to accept and abide by all the terms, covenants, and conditions of the Lease.

Assignee does hereby assume and agrees to be liable to pay any and all sums owing or becoming due Lessor under the terms of the Lease from and after the effective date of the assignment of the Lease to Assignee, and Assignee agrees to accept and abide by all the terms, covenants, and conditions of the Lease.

2. **PROOF OF INSURANCE AND INDEMNIFICATION.** Assignee has provided a certificate of insurance to evidence compliance with the insurance requirements of the Lease and expressly agrees to be bound by the indemnification provisions contained in the Lease.
3. **RELEASE.** Assignor is hereby released and discharged by Lessor from all rights, privileges, responsibilities and obligations under the Lease first arising and accruing from and after the effective date of the assignment of the Lease and Lessor and Assignee each hereby acknowledges that, as of the effective date of the assignment, Assignee enjoys all such rights and privileges and is responsible for satisfying all such obligations the same as if the Lease had originally been executed between Lessor and Assignee.
4. **SECURITY DEPOSIT.** No Security Deposit is required as a condition to this Approval.
5. **RATIFICATION OF LEASE.** Except as expressly set forth herein, no provision of this Approval alters or modifies any of the terms and conditions of the Lease, and all other terms and conditions of the Lease shall remain in full force and effect.
6. **ADDRESS FOR NOTICE.** Notices to Assignee and Assignor shall be sufficient if sent by certified mail, postage prepaid, addressed to:

ASSIGNOR: TV6-W, LLC
4091 Viscount Ave.
Memphis, TN 38118
Attn: William Orgel, President

ASSIGNEE: TV6 Holdings, LLC
8501 Congress Avenue
Boca Raton, FL 33487-1307
Attn: Shawn Gans

7. **AUTHORIZED REPRESENTATIVE.** The persons signing this Lessor's Approval of Assignment on behalf of the Assignee and Assignor represent and warrant that they have the legal authority to bind the Assignee and Assignor, respectively, to the provisions of this Lessor's Approval of Assignment.
8. **NON-WAIVER.** The Lessor's Approval of Assignment hereby given by Lessor shall not end the need for Lessor's consent for any future assignments.
9. **EFFECTIVE DATE.** The Effective Date of this Lessor's Approval of Assignment will be the date this document is approved by the El Paso City Council.
10. **COUNTERPARTS.** This Lessor's Approval of Assignment may be executed in any number of counterparts, each of which shall be deemed an original for all purposes, and all of which shall constitute one and the same instrument as if all parties had signed the same signature page.

(SIGNATURES BEGIN ON THE FOLLOWING PAGE)

ASSIGNOR: TV6-W, LLC

By: [Signature]
Print Name: Neil Seidman
Title: Senior Vice President

ASSIGNOR'S ACKNOWLEDGEMENT

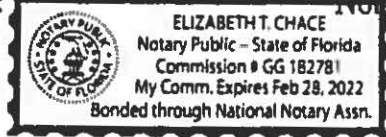
THE STATE OF Florida)
COUNTY OF Palm Beach)

*by means of
physical
presence*

This instrument was acknowledged before me on this 22 day of December,
2020, by Neil Seidman [Officer's Name], Sr Vice President [Title]
of TV6-W, LLC, on behalf of said corporation (Assignor).

My Commission Expires: 2/28/2022

Elizabeth S Chace
Notary Public, State of Florida



(SIGNATURES CONTINUE ON THE FOLLOWING PAGE)

ASSIGNEE: TV6 HOLDINGS, LLC

By: [Signature]
Its: Senior Vice President

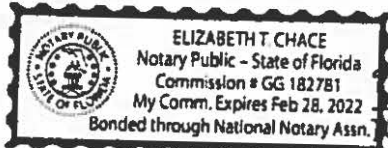
By: Neil Seidman
Its: Senior Vice President

ASSIGNEE'S ACKNOWLEDGEMENT

THE STATE OF Florida)
COUNTY OF Palm Beach)

*by means of
physical
presence*

This instrument was acknowledged before me on this 22 day of December, 2020, by Neil Seidman [Officer's Name], Sr. Vice President [Title], TV6 Holdings, LLC a limited liability company (Assignee).



Elizabeth S. Chace
Notary Public, State of Florida

My Commission Expires:

2/28/2022