

**CITY OF EL PASO, TEXAS
DEPARTMENT HEAD'S SUMMARY REQUEST FOR COUNCIL
ACTION (RCA)**

DEPARTMENT: Airport
AGENDA DATE: March 18, 2008
CONTACT PERSON/PHONE: Patrick T. Abeln, A.A.E.
DISTRICT(S) AFFECTED: 3

SUBJECT:

Resolution authorizing the City Manager to sign a Lessor's Approval of Assignment of Restated Butterfield Trail Industrial Park Lease Agreement by and between the City of El Paso (Lessor), Yazaki North America, Inc. ("Assignor") and ELCOM, Inc., a Texas Corporation ("Assignee") and Yazaki International corporation ("Guarantor").

BACKGROUND / DISCUSSION:

In 1993 the City entered into a Butterfield Trail Restated Industrial Park Lease Agreement with the Lincoln National Life Insurance Company. The 40 year lease on 674,191 square feet has scheduled 10 year rental adjustments based on 8% of the Fair Market Value established by appraisal, not to exceed 23% of the base rent. The present rate is \$0.2160 per square foot, producing an annual rent of \$145,625.28.

The lease was assigned to UPC Realty, LLC pursuant to a Lessor's Approval of Assignment with an effective date of November 18, 1997 and subsequently assigned to Yazaki North America, Inc. ("Assignor") pursuant to a Lessor's Approval of Assignment with an effective date of April 8, 2003.

Yazaki, which assembles automotive parts, is now requesting to have the lease assigned to ELCOM, Inc. Yazaki International Corporation ("Guarantor") agrees to become the guarantor of the Lease pursuant to the assignment. Guarantor confirms that it will remain as Guarantor of the Lease, guaranteeing payment of rent and other charges or fees due to Lessor and expressly agrees to be bound by the indemnification provisions contained in the Lease.

PRIOR COUNCIL ACTION:

Has the Council previously considered this item or a closely related one? If so, when?
Yes. This same lease was assigned from UPC Realty, LLC and approved by Council on April 8, 2003.

AMOUNT AND SOURCE OF FUNDING:

How will this item be funded? Has the item been budgeted? If so, identify funding source by account numbers and description of account. Does it require a budget transfer?

N/A. This is a revenue-generating lease.

CITY CLERK DEPT.
DEC 12 11:02

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

LEGAL: (if required) Raym Telles **FINANCE:** (if required) _____
Raymond L. Telles, Assistant City Attorney

OTHER: Patrick T. Abeln, Director of Aviation Patrick Abeln
(Example: if RCA is initiated by Purchasing, client department should sign also)

Information copy to appropriate Deputy City Manager

APPROVED FOR AGENDA:
CITY MANAGER: _____ **DATE:** _____

CITY CLERK DEPT.
03 MAR 12 AM 11:03

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 Assignment by and between the City of El Paso ("Lessor"), Yazaki North America, Inc. ("Assignor"), Elcom, Inc. ("Assignee") and Yazaki International Corporation ("Guarantor") for the following described property:

All of Lots 3, 4 and 5, Block 9 and all of lots 12, 13 and 14, Block 11, Butterfield Trail Industrial Park, Unit Two, an addition to the City of El Paso, El Paso County, Texas, according to the plat thereof on file in Volume 57, Page 43, Real Property Records, El Paso County, Texas and municipally known and numbered as 20 Butterfield Trail, El Paso, Texas.

ADOPTED this ____ day of _____ 2008.

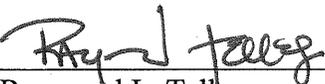
THE CITY OF EL PASO

John F. Cook
Mayor

ATTEST:

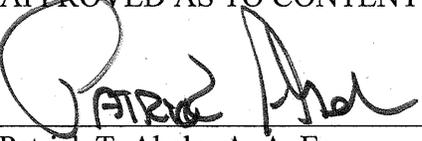
Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:



Raymond L. Telles
Assistant City Attorney

APPROVED AS TO CONTENT:



Patrick T. Abeln, A. A. E.
Director of Aviation

CITY CLERK DEPT.
03 MAR 12 AM 11:03

STATE OF TEXAS §
 §
COUNTY OF EL PASO §

LESSOR'S APPROVAL OF ASSIGNMENT

The City of El Paso ("Lessor") entered into the Restated Butterfield Trail Industrial Park Lease with an effective date of October 1, 1993 between the Lessor and The Lincoln National Life Insurance Company, which was assigned to UPC Realty, LLC pursuant to a Lessor's Approval of Assignment with an effective date of November 18, 1997, and subsequently assigned to Yazaki North America, Inc. ("Assignor") pursuant to a Lessor's Approval of Assignment with an effective date of April 8, 2003 (collectively referred to herein as the "Lease") covering the following described leased premises:

All of Lots 3, 4 and 5, Block 9 and all of lots 12, 13 and 14, Block 11, Butterfield Trail Industrial Park, Unit Two, an addition to the City of El Paso, El Paso County, Texas, according to the plat thereof on file in Volume 57, Page 43, Real Property Records, El Paso County, Texas, which is municipally known and numbered as 20 Butterfield Trail, El Paso, Texas and is more particularly described in **EXHIBIT A**, which is attached hereto and made a part hereof (the "Premises").

1. **CONSENT TO ASSIGNMENT.** Lessor hereby approves and consents to the assignment of the Lease from Assignor to Elcom, Inc., a Texas Corporation ("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. Such approval is expressly conditioned upon the agreement by Guarantor, as identified below, to become the guarantor of such 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. **GUARANTOR.** Yazaki International Corporation ("Guarantor") agrees to become the guarantor of the Lease when Assignee receives said Lease from Assignor pursuant to the assignment of lease contemplated by this instrument. Guarantor hereby confirms that it will remain as Guarantor of the Lease, whereby Guarantor guarantees payment of rent and other charges or fees due to the Lessor and shall remain fully liable for the prompt and complete performance of any and all obligations arising, or to arise, under the Lease.
4. **RATIFICATION OF LEASE.** Except as expressly modified herein, no provision of this consent alters or modifies any of the terms and conditions of the Lease; all other terms and conditions of the Lease shall remain in full force and effect.

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CITY CLERK DEPT.

5. **ADDRESS FOR NOTICE.** Notices to Assignee and Assignor shall be sufficient if sent by certified mail, postage prepaid, addressed to:

ASSIGNEE: Elcom, Inc.
6801 North Haggerty Road
Canton, Michigan 48187
Attn: Ferol Vernon, Vice President

ASSIGNOR: Yazaki North America, Inc.
6801 Haggerty Road
Canton, Michigan 48187
Attn: Don Winn, Vice President, Finance

GUARANTOR: Yazaki International Corporation
6801 North Haggerty Road
Canton, Michigan 48187
Attn: Koh Takemoto, Secretary and EVP

6. **AUTHORIZED REPRESENTATIVE.** The persons signing this Lessor's Approval of Assignment on behalf of the Assignee, the Assignor and the Guarantor each represent and warrant that they have the legal authority to bind the Assignee, the Assignor and the Gurantor respectively, to the provisions of this Lessor's Approval of Assignment.
7. **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.
8. **MULTIPLE COUNTERPARTS.** This Lessor's approval of Assignment may be executed in multiple counterparts.
9. **EFFECTIVE DATE.** The parties have approved this Lessor's Approval of Assignment hereto on this _____ day of March 2008.

(SIGNATURES BEGIN ON THE FOLLOWING PAGE)

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LESSOR: CITY OF EL PASO

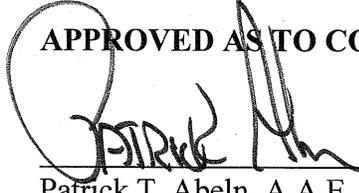
Joyce A. Wilson
City Manager

APPROVED AS TO FORM:



Raymond L. Telles
Assistant City Attorney

APPROVED AS TO CONTENT:



Patrick T. Abeln, A.A.E.
Director of Aviation

LESSOR'S ACKNOWLEDGEMENT

THE STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on this _____ day of _____, 2008,
by **Joyce A. Wilson as City Manager of the City of El Paso, Texas (Lessor).**

Notary Public, State of Texas

(SIGNATURES CONTINUE ON THE FOLLOWING PAGE)

CITY CLERK DEPT.
08 MAR 12 AM 11:03



ASSIGNOR: Yazaki North America, Inc.

George R. Perry

Printed Name: George R. Perry

Title: President and CEO

CITY CLERK DEPT.
08 MAR 12 AM 11:03

ASSIGNOR'S ACKNOWLEDGMENT

THE STATE OF MICHIGAN

COUNTY OF OAKLAND

This instrument was acknowledged before me on this 7TH day of March, 2008, by George R. Perry as President and CEO of **Yazaki North America, Inc.** (Assignor).

Terrence T. Thompson

Notary Public, State of Michigan

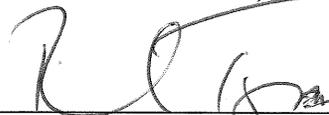
TERRENCE T. THOMPSON
Notary Public, Oakland County, MI
My Commission Expires May 16, 2008

My Commission Expires:

5-16-08

(SIGNATURES CONTINUE ON THE FOLLOWING PAGE)

ASSIGNEE: **Elcom, Inc.**



Printed Name: Richard Tajer

Title: Secretary

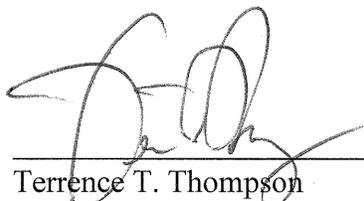
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ASSIGNEE'S ACKNOWLEDGMENT

THE STATE OF MICHIGAN

COUNTY OF OAKLAND

This instrument was acknowledged before me on this 7TH day of March, 2008, by Richard Tajer as Secretary of **Elcom, Inc.** (Assignee).



Terrence T. Thompson
Notary Public, State of Michigan

My Commission Expires:
5-16-08

TERRENCE T. THOMPSON
Notary Public, Oakland County, MI
My Commission Expires May 16, 2008

(SIGNATURES CONTINUE ON THE FOLLOWING PAGE)

GUARANTOR:
Yazaki International Corporation

Koh Takemoto

Printed Name: Koh Takemoto
Title: Secretary and Executive Vice President

CITY CLERK DEPT.
08 MAR 12 AM 11:03

GUARANTOR'S ACKNOWLEDGMENT

THE STATE OF MICHIGAN

COUNTY OF OAKLAND

This instrument was acknowledged before me on this 7th day of March, 2008, by Koh Takemoto as Secretary and Executive Vice President of **Yazaki International Corporation** (Guarantor).

Terrence T. Thompson

Terrence T. Thompson
Notary Public, State of Michigan

TERRENCE T. THOMPSON
Notary Public, Oakland County, MI
My Commission Expires May 16, 2008

My Commission Expires

5-16-08

20 BUTTERFIELD TRAIL
674,191 SQUARE FEET
or 15.477 ACRES

Being the description of all of Lots 3, 4 and 5, Block 9 and all of Lots 12, 13 and 14, Block 11, Butterfield Trail Industrial Park Unit Two, City of El Paso, El Paso County, Texas and being more particularly described by metes and bounds as follows:

COMMENCING FOR REFERENCE at the City Monument at the centerline intersection of Leigh Fisher Boulevard and Butterfield Trail Boulevard;

THENCE, along the centerline of said Butterfield Trail Boulevard, South $87^{\circ}54'08''$ East, a distance of 79.17 feet to a point;

THENCE, leaving said centerline, South $02^{\circ}12'07''$ West, a distance of 63.43 feet to a point in the south right-of-way line of said Butterfield Trail Boulevard and POINT OF BEGINNING for the herein described tract;

THENCE, along said south right-of-way line, the following five courses:

South $89^{\circ}09'08''$ East, a distance of 228.63 feet to a point at the beginning of a curve to the right;

Along the arc of said curve (Delta Angle = $26^{\circ}08'44''$, Radius = 35.00 feet, Chord = South $76^{\circ}04'46''$ East, 15.83 feet) a distance of 15.97 feet to a point at the beginning of a curve to the left;

Along the arc of said curve (Delta Angle = $63^{\circ}56'11''$, Radius = 68.00 feet, Chord = North $85^{\circ}01'31''$ East, 72.00 feet) a distance of 75.88 feet to a point at the beginning of a curve to the right;

Along the arc of said curve (Delta Angle = $39^{\circ}02'26''$, Radius = 35.00 feet, Chord = North $72^{\circ}34'39''$ East, 23.39 feet) a distance of 23.85 feet to a point;

South $87^{\circ}54'08''$ East, a distance of 293.36 feet to a point in the west right-of-way line of Butterfield Circle;

THENCE, along said west right-of-way line, the following three courses:

Along the arc of a curve to the right (Delta Angle = $90^{\circ}00'00''$, Radius = 35.00 feet, Chord = South $42^{\circ}54'08''$ East, 49.50 feet) a distance of 54.98 feet to a point;

South $02^{\circ}05'52''$ West, a distance of 542.10 feet to a point at the beginning of a curve to the left;

Along the arc of said curve (Delta Angle = $38^{\circ}58'41''$, Radius = 332.68 feet, Chord = South $17^{\circ}23'29''$ East, 221.98 feet) a distance of 226.32 feet to the southeast corner of Lot 12, said Block 11;

THENCE, leaving said west right-of-way line and along the south line of said Lot 12, South $53^{\circ}07'11''$ West, a distance of 405.00 feet to the southwest corner of said Lot 12;

THENCE, along the west line of said Lot 12, North $36^{\circ}52'49''$ West, a distance of 141.92 feet to the southeast corner of Lot 3, said Block 9;

CITY CLERK DEPT.
08 MAR 12 AM 11:03

EXHIBIT

A

Page 1

THENCE, along the south line of said Lot 9, South $80^{\circ}56'54''$ West, a distance of 366.08 feet to the southwest corner of said Lot 3 in the east right-of-way line of said Leigh Fisher Boulevard;

THENCE, along said east right-of-way line, the following three courses:

Along the arc of a curve to the right (Delta Angle = $11^{\circ}15'13''$, Radius = 659.37 feet, Chord = North $03^{\circ}25'29''$ West, 129.30 feet) a distance of 129.51 feet to a point;

North $02^{\circ}12'07''$ East, a distance of 819.52 feet to a point at the beginning of a curve to the right;

Along the arc of said curve (Delta Angle = $88^{\circ}38'45''$, Radius = 35.00 feet, Chord = North $46^{\circ}31'29''$ East, 48.91 feet) a distance of 54.14 feet to the POINT OF BEGINNING and containing 674,191 square feet or 15.477 acres of land.

NOT A GROUND SURVEY

PREPARED BY:
Faight & Associates Inc.
El Paso, Texas
August 24, 1993
Job No. 5010-90M

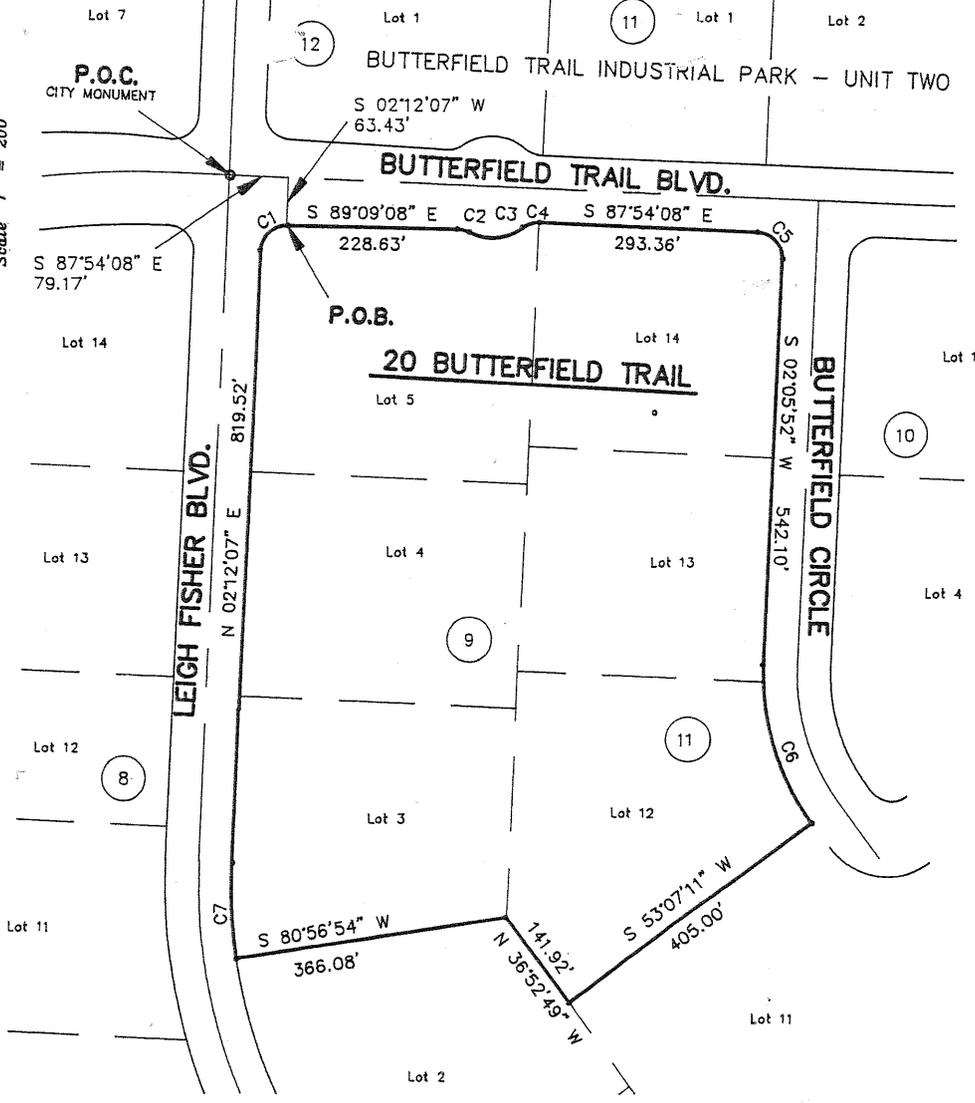
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EXHIBIT

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Page 2

Scale 1" = 200'



NO	CH. BRG.	CHORD	DELTA	RADIUS	ARC
C1	N46°31'29"E	48.91'	88°38'45"	35.00'	54.14'
C2	S76°04'46"E	15.83'	26°08'44"	35.00'	15.97'
C3	N85°01'31"E	72.00'	63°56'11"	68.00'	75.88'
C4	N72°34'39"E	23.39'	39°02'26"	35.00'	23.85'
C5	S42°54'08"E	49.50'	90°00'00"	35.00'	54.98'
C6	S17°23'29"E	221.98'	38°58'41"	332.68'	226.32'
C7	N03°25'29"W	129.30'	11°15'13"	659.37'	129.51'

EXHIBIT
A
 Page 3

NOT A GROUND SURVEY

Faught & Associates Inc.
 CONSULTING ENGINEERS
 433 Executive Center Blvd.
 El Paso, Texas 79902
 (915) 542-4900

674,191 Sq. Ft.
 or
 15.477 Acres

ALL OF LOTS 3, 4, AND 5, BLOCK 9, AND
 ALL OF LOTS 12, 13, AND 14, BLOCK 11,
 BUTTERFIELD TRAIL INDUSTRIAL PARK-UNIT TWO,
 CITY OF EL PASO, EL PASO COUNTY, TEXAS

Drawn By: CAH/JC	Date: 08-23-93	Scale: 1" = 200'	Job No: 5010-90M
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