

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

DEPARTMENT: Airport

AGENDA DATE: October 29, 2013

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

DISTRICT(S) AFFECTED: All

SUBJECT:

Resolution to authorize the City Manager to sign a Lessor's Approval of Assignment of the Restated Butterfield Trail Industrial Park Lease by and among the City of El Paso ("Lessor"), The Lincoln National Life Insurance Company ("Assignor") and SL EP Industrial, LP ("Assignee") for the premises described as follows:

A portion of Lot 1 and a portion of Lot 2, Block 10, Butterfield Trail Industrial Park Unit Two, an addition to the City of El Paso, El Paso County Texas, and municipally known as 28 Butterfield Trail, El Paso, Texas.

Current annual rent: 34,201sf @ \$0.1241/sf = of \$4,244.40/yr. Next rental rate adjustment scheduled for 9/1/2017 based upon 8% of then fair market value established by appraisal with a 23% cap.

Term remaining: Forty-nine (49) years and eleven (11) months including all Options.

Subtenant: ZeCase/distribution

BACKGROUND / DISCUSSION:

The City of El Paso entered into a Restated Butterfield Trail Industrial Park Lease with The Lincoln National Life Insurance Co. effective October 1, 1993 for a term of forty (40) years with three (3) additional ten (10) year Options.

Assignor now desires to assign to SL EP Industrial, LP, a wholly owned affiliate of Stonelake Capital Partners, LLC, all of its interest in the Lease with all the terms and conditions remaining the same. Stonelake is a privately owned, fully integrated real estate investment company with offices in Dallas, Austin and Houston, who since 2007, has closed real estate transactions with a total capitalization in excess of \$300 million. As consideration for the Assignment of this and seven (7) other Butterfield Trail Industrial Leases, SL EP Industrial, LP plans to invest approximately \$500,000 related to various capital improvements into the BTIP portfolio over the next ten years. Additionally, within one hundred and eighty (180) days after closing, SL EP Industrial, LP plans to invest approximately \$250,000 into the Portfolio on deferred maintenance items such as roof and parking lot repairs.

Stonelake is actively looking for future new investments in El Paso and Butterfield Trail Industrial Park with the goal of significantly growing the total number of square feet and buildings in the market.

PRIOR COUNCIL ACTION:

10/1/1993 – Restated Butterfield Trail Industrial Lease

AMOUNT AND SOURCE OF FUNDING:

This is a revenue generating lease.

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 Lessor's Approval of Assignment of the Restated Butterfield Trail Industrial Park Lease by and among the City of El Paso ("Lessor"), The Lincoln National Life Insurance Company ("Assignor") and SL EP Industrial. LP ("Assignee") for the following described property:

A portion of Lot 1 and a portion of Lot 2, Block 10, Butterfield Trail Industrial Park Unit Two, an addition to the City of El Paso, El Paso County, Texas, municipally known and numbered as 28 Butterfield Trail, El Paso, Texas.

ADOPTED this the ____ day of _____ 2013.

THE CITY OF EL PASO

Oscar Leeser
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 §
 §
COUNTY OF EL PASO §

LESSOR'S APPROVAL OF ASSIGNMENT

The City of El Paso ("Lessor") entered into a Restated Butterfield Trail Industrial Park Lease ("Lease") effective October 1, 1993 between the Lessor and The Lincoln National Life Insurance Company ("Assignor") for the following described property:

A portion of Lot 1 and a portion of Lot 2, Block 10, Butterfield Trail Industrial Park Unit Two, an addition to the City of El Paso, El Paso County, Texas, and being more particularly described by metes and bounds in Exhibit "A" attached hereto and made a part hereof; and municipally known and numbered as 28 Butterfield Trail, El Paso, Texas. ("Property")

1. **CONSENT TO ASSIGNMENT.** Lessor hereby approves and consents to the assignment of the Lease from Assignor to SL EP Industrial, LP ("Assignee"), on the condition that Assignee assumes and becomes liable to pay any and all sums owing or becoming due Lessor under 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.

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.** Assignee shall, as of the effective date of the assignment, enjoy all rights and privileges and be responsible for satisfying all such obligations the same as if the Lease had originally been executed between Lessor and Assignee. Provided, however, Assignee shall tender to Lessor an irrevocable letter of credit, or other surety acceptable to the Director of Aviation ("Security Deposit") in an amount equal to three (3) months of Rental to guarantee the faithful performance of Lessee of its obligations under this Lease and the payment of all Rental due hereunder. Assignee shall be obligated to maintain such Security Deposit in effect until the expiration of eighteen (18) consecutive months from the Effective Date of this Lessor's approval of Assignment. Within twenty (20) days after expiration of such eighteen (18) month period and if no Event of Default by Assignee has occurred, Lessor will return the Security Deposit to Assignee.

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

ASSIGNOR: The Lincoln National Life Insurance Company
100 North Greene St.
Greensboro, NC 27401
Attention: Real Estate Investments

With Copy to: Lincoln Financial Group
Legal Department
100 North Greene St.
Greensboro, NC 27401
Attn: Mary Jo Potter, Esq.

ASSIGNEE: SL EP Industrial, LP
9600 N. MoPac EXPY, Ste. 250
Austin, Texas 78759
Attn: John A. Kiltz

6. **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 authority legally to bind the Assignee and Assignor, respectively, to the provisions of this Lessor's Approval of Assignment.
7. **NON-WAIVER.** This Lessor's Approval of Assignment hereby given by Lessor shall not end the need for Lessor's consent for any future assignments.
8. **EFFECTIVE DATE.** The parties have executed this Lessor's Approval of Assignment hereto this 29th day of October 2013.

[SIGNATURES BEGIN ON THE FOLLOWING PAGE]

ADOPTED this ____ day of _____, 2013

LESSOR: CITY OF EL PASO

Joyce A. Wilson
City Manager

APPROVED AS TO FORM:



Theresa Cullen
Deputy City Attorney

APPROVED AS TO CONTENT:



Monica Lombraña, 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 _____, 2013,
by **Joyce A. Wilson** as **City Manager** of the **City of El Paso, Texas**. (Lessor)

My Commission Expires:

Notary Public, State of Texas

[SIGNATURES CONTINUE ON THE FOLLOWING PAGE]

ASSIGNOR:
The Lincoln National Life Insurance
Company


Printed Name: John R. Barber
Title: Vice President

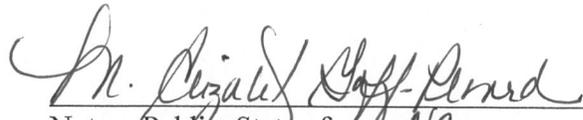
ASSIGNOR'S ACKNOWLEDGEMENT

THE STATE OF North Carolina
COUNTY OF Guilford }

This instrument was acknowledged before me on this 11th day of October, 2013,
by John R. Barber as V. President of The Lincoln National Life Insurance
Company (Assignor).

My Commission Expires 6/26/16




Notary Public, State of NC

[SIGNATURES CONTINUE ON THE FOLLOWING PAGE]

28 SPUR
248,319 SQUARE FEET
or 5.701 ACRES

Being a portion of Lot 8, and all of Lot 7, Block 12, Butterfield Trail Industrial Park Unit Three, 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 Celerity Wagon Street and Spur Drive;

THENCE, along the centerline of said Spur Drive, South 87°54'08" East, a distance of 219.35 feet to a point;

THENCE, leaving said centerline, South 02°05'52" West, a distance of 45.00 feet to a point in the south right-of-way line of said Spur Drive and POINT OF BEGINNING for the herein described tract;

THENCE, leaving said right-of-way line, South 02°05'52" West, a distance of 692.14 feet to a point for corner;

THENCE, North 36°52'49" West, a distance of 310.00 feet to a point for corner;

THENCE, North 87°54'08" West, a distance of 148.71 feet to a point in the west line of Lot 8, said Block 12;

THENCE, along said west line, North 02°05'52" East, a distance of 30.00 feet to a point in the south line of Lot 7, said Block 12;

THENCE, along the south line of said Lot 7, North 87°54'08" West, a distance of 165.64 feet to the southwest corner of said Lot 7;

THENCE, along the west line of said Lot 7, North 02°05'52" East, a distance of 421.15 feet to the northwest corner of said Lot 7 in the south right-of-way line of said Spur Drive;

THENCE, along said south right-of-way line, South 87°54'08" East, a distance of 509.35 feet to the POINT OF BEGINNING and containing 248,319 square feet or 5.701 acres of land.

NOT A GROUND SURVEY

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



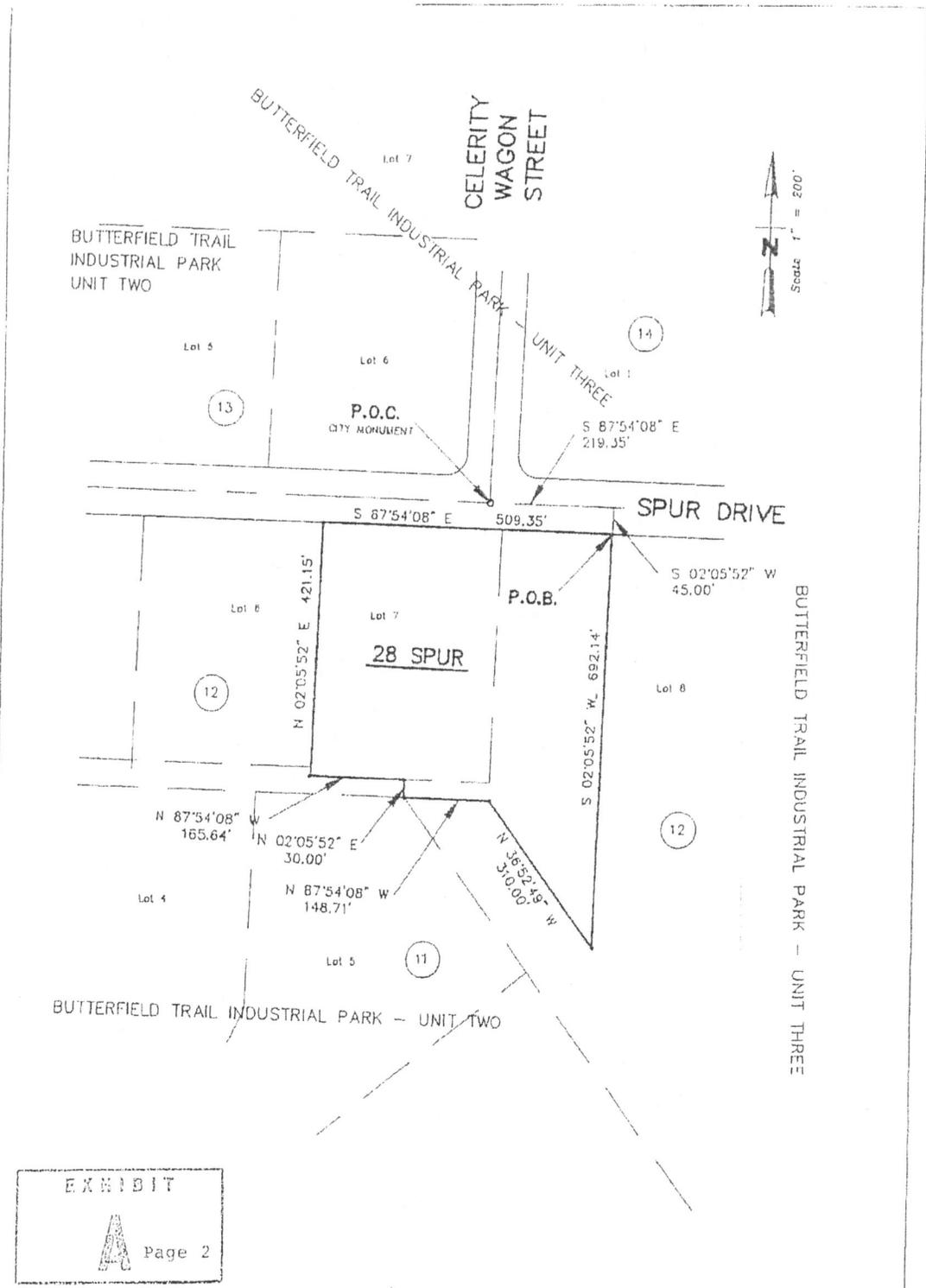


EXHIBIT
A Page 2

NOT A GROUND SURVEY

248,319 Sq. Ft.
 or
 5.701 Acres

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

PORTION OF LOT 8, AND ALL OF LOT 7, BLOCK 12,
 BUTTERFIELD TRAIL INDUSTRIAL PARK - UNIT THREE,
 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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