

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

**DEPARTMENT:** Airport  
**AGENDA DATE:** December 10, 2013  
**CONTACT PERSON NAME AND PHONE NUMBER:** Monica Lombraña, A.A.E. 780-4793  
**DISTRICT(S) AFFECTED:** All

**SUBJECT:**

That the City Manager be authorized to sign a Lessor's Approval of Assignment of the Butterfield Trail Industrial Park Lease by and among the City of El Paso ("Lessor"), The Kennedy 1978 Trust ("Assignor") and SL EP Industrial, LP ("Assignee") for the following described property: Portions of Lot 7, 8 and 9, Block 13, Butterfield Trail Industrial Park, Unit Three, an addition to the City of El Paso, El Paso County Texas, and municipally known as 26 and 28 Walter Jones Boulevard, El Paso, Texas.

**Current annual rent:** 389,915sf @ \$0.2267/sf = \$88,384.92/yr. Next rental rate adjustment scheduled for 1/1/2017 based upon 8% of then fair market value established by appraisal with a 20% cap.

**Term remaining:** Forty-three (43) years including all Options.

**Subtenants:** 26 Walter Jones - NCH, Lockheed Martin/Sippican, Industrial Packaging, Merlot Corporation, JMF (Team Air Express), Continental Packaging; 28 Walter Jones - Elliott Tape, Nippon Express, Industrial Packaging, ILS (Supply Technology), Specialized Support Services.

**BACKGROUND / DISCUSSION:**

The City of El Paso entered into a Butterfield Trail Industrial Park ("BTIP") Lease with Louis I. Kennedy effective January 1, 1997 for a term of forty (40) years with two (2) additional ten (10) year Options. On April 1, 1998, the Lease as assigned from Louis I. Kennedy to The Kennedy 1978 Trust.

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 eight (8) other Butterfield Trail Industrial Leases, SL EP Industrial, LP plans to invest approximately \$500,000 related to various capital improvements into BTIP portfolios over the next ten years. Additionally, within one hundred and eighty (180) days after closing, SL EP Industrial, LP plans to invest at least approximately \$250,000 into the Portfolios 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:**

1/1/97 - Butterfield Trail Industrial Lease  
4/1/98 - First Amendment to Butterfield Trail Industrial Lease  
4/1/98 - Lessor's Approval of Assignment of Lease  
9/1/99 - Second Amendment to Butterfield Trail Industrial Park Lease  
8/3/04 - Second Amendment to Butterfield Trail Industrial Lease

**AMOUNT AND SOURCE OF FUNDING:**

N/A 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 Butterfield Trail Industrial Park Lease by and among the City of El Paso ("Lessor"), The Kennedy 1978 Trust ("Assignor") and SL EP Industrial, LP ("Assignee") for the following described property:

Portions of Lots 7, 8 and 9, Block 13, Butterfield Trail Industrial Park Unit Three, an addition to the City of El Paso, El Paso County, Texas, municipally known and numbered as 26 and 28 Walter Jones Boulevard, El Paso, Texas.

**ADOPTED** this the \_\_\_\_ day of \_\_\_\_\_ 2013.

CITY OF EL PASO

\_\_\_\_\_  
Oscar Leeser  
Mayor

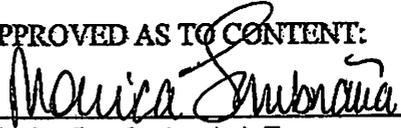
ATTEST:

\_\_\_\_\_  
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**

**WHEREAS**, the City of El Paso (“Lessor”) entered into a Butterfield Trail Industrial Park Lease (“Lease”) effective January 1, 1997 between the Lessor and Louis I. Kennedy;

**WHEREAS**, the Lease was amended by a First Amendment to Lease with an Effective Date of April 1, 1998, for the purpose of changing Lessee’s rights with regard to subleasing;

**WHEREAS**, the Lease was assigned to The Kennedy 1978 Trust (“Assignor”) pursuant to that Lessor’s Approval of Assignment with an Effective Date of April 1, 1998;

**WHEREAS**, the Lease was amended by a Second Amendment to Lease with an Effective Date of September 1, 1999, to include an additional 1,239 square feet and the description of the of the Leased Premises was amended to read as follows:

A portion of Lots 7, 8 and 9, Block 13, Butterfield Trail Industrial Park Unit Three, City of El Paso, El Paso County, Texas, commonly known as 26 Walter Jones Blvd.,

**WHEREAS**, the street address of 28 Walter Jones Blvd. was assigned to the Leased Premises when a second building was constructed; and

**WHEREAS**, the Lease was amended by a Third Amendment to Lease with an Effective Date of August 3, 2004, for the purpose of correcting a clerical error.

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

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:
 

<b>ASSIGNOR:</b>	The Kennedy 1978 Trust Louis I. Kennedy 9229 Sunset Blvd., Room #210 West Hollywood, California 90069
<b>ASSIGNEE:</b>	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 Effective Date of this Lessor’s Approval of Assignment will be December 26, 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 Kennedy 1978 Trust

*[Handwritten Signature]*

Printed Name: Louis Kappas

Title: Owner

*See Notarization Attached*

ASSIGNOR'S ACKNOWLEDGEMENT

THE STATE OF \_\_\_\_\_ )

COUNTY OF \_\_\_\_\_ )

This instrument was acknowledged before me on this \_\_\_\_ day of \_\_\_\_\_, 2013,  
by \_\_\_\_\_ as \_\_\_\_\_ of The Kennedy 1978 Trust (Assignor).

\_\_\_\_\_  
Notary Public, State of \_\_\_\_\_

My Commission Expires:  
\_\_\_\_\_

[SIGNATURES CONTINUE ON THE FOLLOWING PAGE]

# CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California }  
County of Los Angeles } SS.

On 11/27/2013 before me, Frida Lohse, Notary Public,  
DATE Name, Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared Louis Kennedy-----  
NAME(S) OF SIGNER(S)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



[Signature]  
Signature Of Notary Public

Place Notary Seal Above

## OPTIONAL

*Though the data is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.*

### DESCRIPTION OF ATTACHED DOCUMENT

Title or Type of Document: Lessor's Approval of Assignment-----

Document Date: 11/27/2013 Number of Pages: 5

Signer(s) Other Than Named Above: None-----

### CAPACITY(IES) CLAIMED BY SIGNER

Signer's Name: Louis Kennedy

- Individual
- Corporate Officer - Title(s): \_\_\_\_\_
- Partnership -  Limited  General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_







**PROPERTY DESCRIPTION  
388,676 SQUARE FEET  
OR 8.670 ACRES**

Being a portion of Lots 7 and 8, Block 13, Butterfield Trail Industrial Park, Unit Three, City of El Paso, El Paso County, Texas and being more particularly described by meets and bounds as follows:

**COMMENCING FOR REFERENCE** at the City Monument at the centerline intersection of Spur Drive (90 feet wide) and Celerity Wagon Street (90 feet wide);

**THENCE**, along the centerline of said Celerity Wagon Street, North  $02^{\circ} 05' 52''$  East, a distance of 635.00 feet to a point;

**THENCE**, leaving said centerline, North  $87^{\circ} 54' 08''$  West, a distance of 515.00 feet to the **POINT OF BEGINNING** for the herein described tract;

**THENCE**, North  $87^{\circ} 54' 08''$  West, a distance of 87.60 feet to a point in the West line of said Lot 7;

**THENCE**, along said West line, South  $02^{\circ} 05' 52''$  West, a distance of 130.00 feet to a point;

**THENCE**, leaving said West line, North  $87^{\circ} 54' 08''$  West, a distance of 557.02 feet to a point in the West line of said Lot 8;

**THENCE**, along said West line, North  $02^{\circ} 05' 52''$  East, a distance of 620.62 feet to the Northwest corner of said Lot 8 in the South right of way line of Walter Jones Boulevard (120 feet wide);

**THENCE**, along said South right of way line, South  $87^{\circ} 54' 08''$  East, a distance of 644.62 feet to a point;

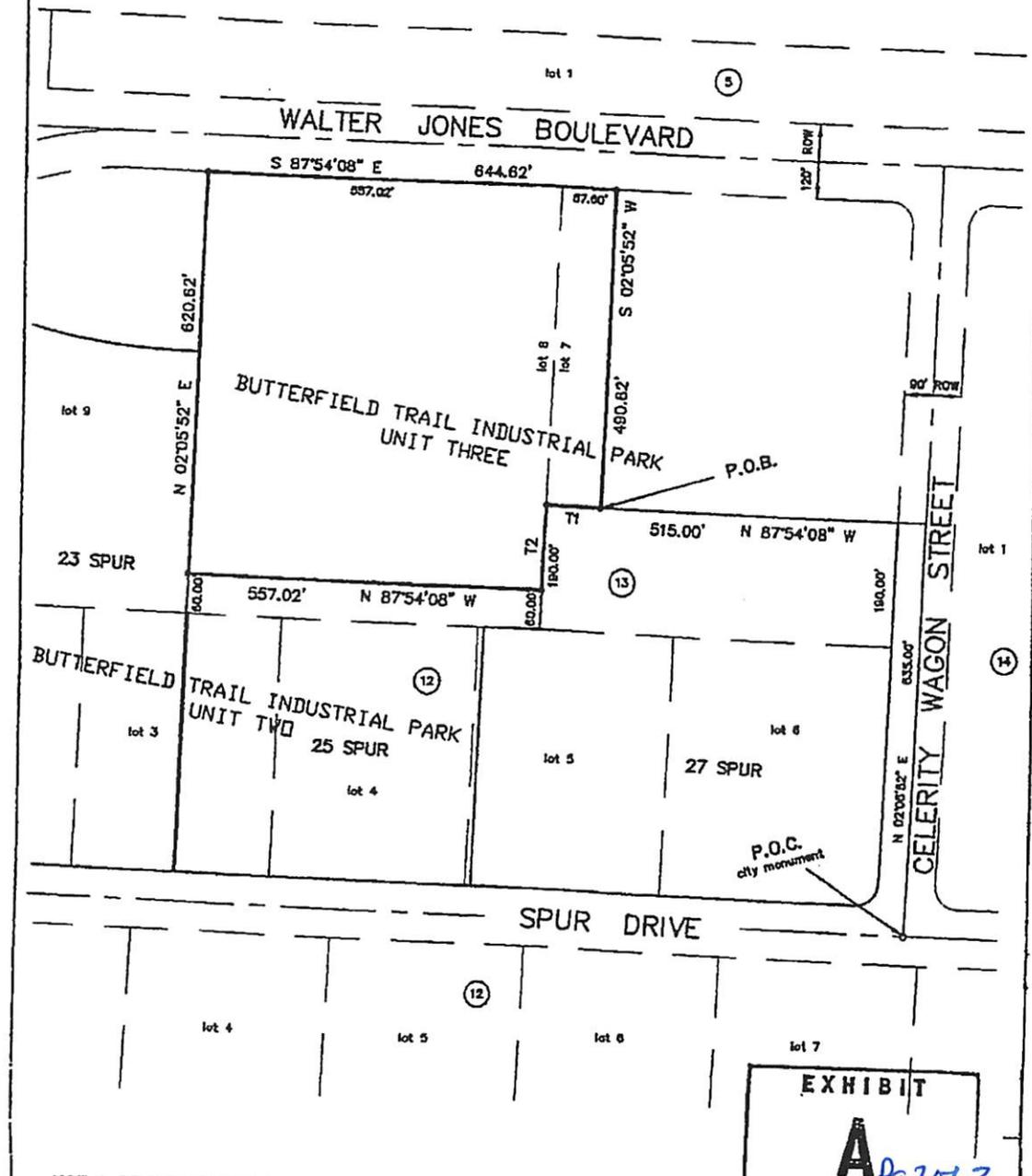
**THENCE**, leaving said right of way line, South  $02^{\circ} 05' 52''$  West, a distance of 490.62 feet to the **POINT OF BEGINNING** and containing 388,676 square feet or 8.670 acres of land.

**NOT A GROUND SURVEY**

**PREPARED BY:**  
Faight & Associates Inc.  
El Paso, Texas  
December 5, 1996  
Job No. S5010-91A



LINE	DIRECTION	DISTANCE
T1	N 87°54'08" W	87.60'
T2	S 02°05'52" W	130.00'



NOT A GROUND SURVEY

EXHIBIT  
**A**  
*Pg 207.3*

388,676 Sq. Ft.  
 8.670 Acres

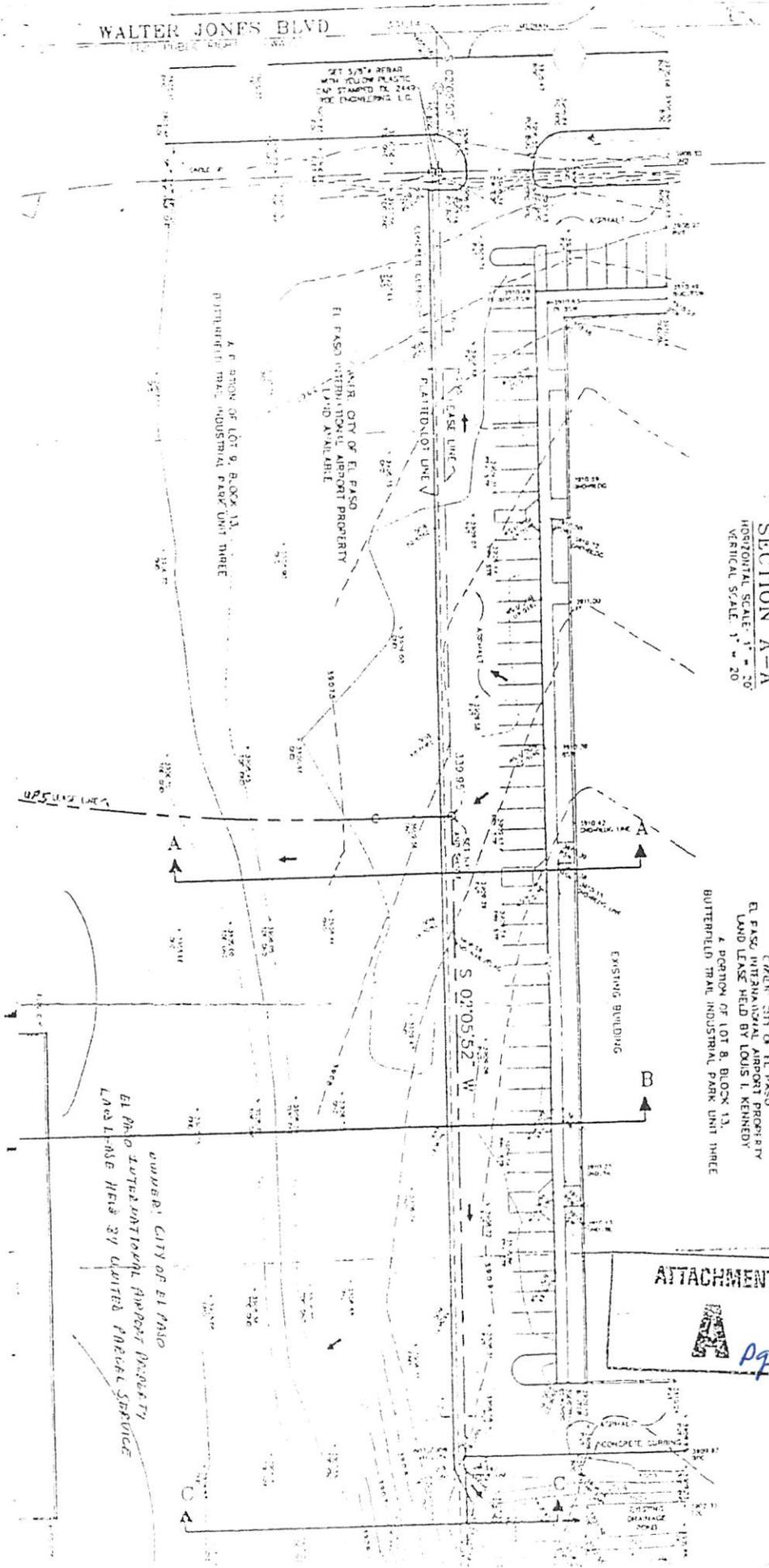
**Faught & Associates Inc.**  
 CONSULTING ENGINEERS

433 Executive Center Blvd.  
 El Paso, Texas 79902  
 (915) 542-4900

EXHIBIT  
 PORTION OF LOTS 7 AND 8, BLOCK 13,  
 BUTTERFIELD TRAIL INDUSTRIAL PARK UNIT THREE,  
 CITY OF EL PASO, EL PASO COUNTY, TEXAS

Drawn By: JC	Date: 12-05-96	Scale: 1"=200'	Job No: S5010-91A
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WALTER JONES BLVD



SECTION A-A  
 HORIZONTAL SCALE 1" = 20'  
 VERTICAL SCALE 1" = 20'

CENTER CITY OF EL PASO  
 EL PASO INTERNATIONAL AIRPORT PROPERTY  
 LAND LEASE HELD BY LOUIS I. KENNEDY  
 A PORTION OF LOT 8, BLOCK 13,  
 BUTTERFIELD TRAIL INDUSTRIAL PARK UNIT THREE

ATTACHMENT  
 A  
 7303