

**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 Ground Lessor's Estoppel Certificate and Amendment of the Butterfield Trail Industrial Park Lease by and among the City of El Paso ("Lessor"), and SL EP Industrial, LP ("Lessee") 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:**

*Monica Lombraña*

(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 Ground Lessor's Estoppel Certificate and Amendment to the Butterfield Trail Industrial Park Lease by and among the City of El Paso ("Lessor") and SL EP Industrial, LP ("Lessee") for the following described property:

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

Dated this \_\_\_\_ 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 Lombrafia, A.A.E.  
Director of Aviation

**ESTOPPEL CERTIFICATE AND AMENDMENT  
BUTTERFIELD TRAIL INDUSTRIAL PARK LEASE**

Date: \_\_\_\_\_, 2013

To: Independent Bank "Lender"  
2101 Cedar Springs Rd., Ste. 725  
Dallas, Texas 75201  
Attn: Chad Crozier

SL EP Industrial, LP "Lessee"  
9600 N. MoPac WXPY, Ste. 250  
Austin, Texas 78757  
Attn: John A. Kiltz

From: City of El Paso "Lessor"  
El Paso International Airport  
6701 Convair Road  
El Paso, Texas 79925-1091

RE: Butterfield Trail Industrial Park Lease Agreement with an Effective Date of January 1, 1997 by and between Lessor and Louis I. Kennedy; subject to that First Amendment to Lease with an Effective Date of April 1, 1998; as subsequently assigned to The Kennedy 1978 Trust pursuant to that Lessor's Approval of Assignment with an Effective Date of April 1, 1998; subject to that Second Amendment of Lease with an Effective Date of September 1, 1999; subject to that Third Amendment to Lease with an Effective Date of August 11, 2004; and subsequently assigned to SL EP Industrial, LP by that Lessor's Approval of Assignment effective December 26, 2013. "Lease"

The property described as portions of Lots 7, 8 and 9, Block 13, Butterfield Trail Industrial Park, Unit Three, El Paso, El Paso County, Texas as more fully described on Exhibit "A", which is attached hereto and incorporated herein for all purposes, which is also municipally know and numbered as 26 and 28 Walter Jones Boulevard, El Paso, Texas. "Property"

1. Lessor is and remains the lessor under the Lease covering the Property.

2. The Lease contains the full and complete agreement of the parties with respect to the subject matters thereof. No other understandings (oral or written) exist with respect thereto. The Lease is in full force and effect.
3. All rents and other charges due to Lessor pursuant to the Lease for the Property have been paid in full through November 30, 2013. Annual rent in the amount of \$88,384.92 is due and payable under the terms of the Lease, subject to any escalations provided for in the Lease.
4. The Effective Date of the Lease is January 1, 1997 and includes a primary term of forty (40) years. Lessee also has two (2) options to renew for ten (10) additional years each.
5. To the best of Lessor's knowledge, as of the date hereof there is no known default under the Lease in the payment of rent or otherwise. To the best of Lessor's knowledge, there exists no condition, event, fact, or occurrence which, by service of notice or passage of time, or both, of uncured, would constitute a default on the part of Lessee under the Lease except as noted in paragraph 3 above.
6. Lessor hereby recognizes Lender and its successors and assigns as a "mortgagee" for all purposes under the Lease and agrees that Lender and its successors and assigns shall be entitled to the benefit of all leasehold mortgagee protection provisions contained in the Lease, including, without limitation, the provisions of Article IX of the Lease. Lessor acknowledges that Lender has requested, and hereby agrees to send, copies of all notices hereafter given by Lessor to Lessee, and Lessor will send such notices to:

Independent Bank  
2101 Cedar Springs Rd., Ste. 725  
Dallas, Texas 75201  
Attn: Chad Crozier

or to such other address as Lender may hereafter specify by written notice to Lessor.

7. Notwithstanding anything to the contrary contained elsewhere in the Lease, the Lease is assignable to the Lender without the consent of Lessor, and in the event the Lease is so assigned, the Lease is further assignable by Lender without the prior consent of Lessor, on a one time basis only, as long as Lessor receives written notice of the assignment from the Lender or the assignee.
8. Notwithstanding anything to the contrary contained elsewhere in the Lease, Lender may assign its interest in the Loan without the consent of Lessor, and any successor holder of the Loan may further assign the Loan without the consent of Lessor. Provided, however, that the parties acknowledge and agree that Lessor has no obligation to provide notice to any successor or assignee of Lender unless Lessor has received written notice of the existence and address of such successor or assignee pursuant to the terms of Section 9.01 of the Lease, which requires such successor or assignee deliver to Lessor a written notice specifying "(A) the amount of the obligation secured by the Mortgage, (B) the date of the

maturity or maturities thereof, and (C) the name and mailing address of such Mortgagee.” After receipt of such notice, Lessor shall serve such successor or assignee, by certified mail at the latest address furnished by such successor or assignee, a copy of every notice served by Lessor upon Lessee under the terms and provisions of the Lease so long as the Loan is in effect.

9. As long as Lender holds any mortgages or deeds of trust on the Leasehold Estate:

Section 9.02 of the Lease is amended to include a new paragraph which shall state:

- (a) Lessor will not cancel this Lease in the absence of default. In addition, as a condition precedent to any amendment or a voluntary surrender of the Lease or an agreement to terminate or shorten the Lease (“Amendment”), Lessee must obtain Lender’s prior written consent to such Amendment and deliver same to Lessor. As between Lessor and Lessee, Lessee shall have the responsibility to negotiate with Lender to obtain Lender’s prior written consent to any Amendment of the Lease. Lessor will not process for signature any Amendment of the Lease without first receiving from Lessee a copy of Lender’s signed approval of such Amendment. Without limiting the foregoing, Lessor and Lessee agree and acknowledge that no notice of an Amendment given under the Lease is effective against Lender, its successors or assigns, unless a copy of such notice has been delivered to Lender.
- (b) In addition to the rights of lenders set forth in the Lease, if the Lease is terminated for any reason (including, without limitation, rejection of the Lease in bankruptcy) prior to the expiration of the term thereof, as the same may be renewed or extended, Lender may request from Lessor the reinstatement of the Lease by curing all events of default susceptible of being cured and providing to Lessor written notice of Lender’s intent to assume all of Lessee’s obligations arising from the Lease within forty-five (45) days after the receipt by Lender of written notice from Lessor of such termination; at which time Lessor will enter into a reinstatement of the Lease with Lender.
10. Lessor has not granted any mortgages, liens or deeds of trust covering the Property, which are superior to the Lease. The Lease is subordinated to the deed of this Property to the Lessor from the U.S. Government.
11. Lessor has not consented to and has no knowledge or notice of any hypothecation, pledge or mortgage of Lessee’s interest under the Lease with respect to the Property, which has not been released or discharged.
13. Lessor will give notice of any default under the Lease to Lessee at the address set forth above.

APPROVED this \_\_\_\_ day of \_\_\_\_\_, 2013.

**LESSOR: CITY OF EL PASO**

\_\_\_\_\_  
Joyce A. Wilson  
City Manager

**APPROVED AS TO FORM:**

*Theresa Cullen*  
Theresa Cullen  
Deputy City Attorney

**APPROVED AS TO CONTENT:**

*Monica Lombraña*  
Monica Lombraña, A.A.E.  
Director of Aviation

**ACKNOWLEDGEMENT**

STATE OF TEXAS       )  
  )  
COUNTY OF EL PASO    )

This instrument was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_ 2013,  
by Joyce A. Wilson, as City Manager for the **City of El Paso**.

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

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

**(Signatures continue on the following page)**

LESSEE: SL EP Industrial, LP, a Texas limited partnership

By: SOP Manager III, LLC, a Texas limited liability company, its General Partner

By: [Signature]  
Kenneth E. Aboussie, Jr., Co-President

By: \_\_\_\_\_  
John A. Kiltz, Co-President

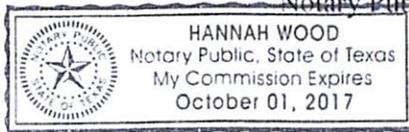
**LESSEE'S ACKNOWLEDGEMENT**

THE STATE OF TEXAS        )  
  )  
COUNTY OF DALLAS        )

This instrument was acknowledged before me on this 20 day of November, 2013, by Kenneth E. Aboussie, Jr. as Co-President of SOP Manager III, LLC, General Partner of SL EP Industrial, LP. (Assignee)

My Commission Expires: 10/1/17

Hannah Wood  
Notary Public, State of Texas



**LESSEE'S ACKNOWLEDGEMENT**

THE STATE OF TEXAS        )  
  )  
COUNTY OF TRAVIS        )

This instrument was acknowledged before me on this \_\_\_\_ day of \_\_\_\_\_, 2013, by John A. Kiltz as Co-President of SOP Manager III, LLC, General Partner of SL EP Industrial, LP. (Assignee)

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

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



**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.

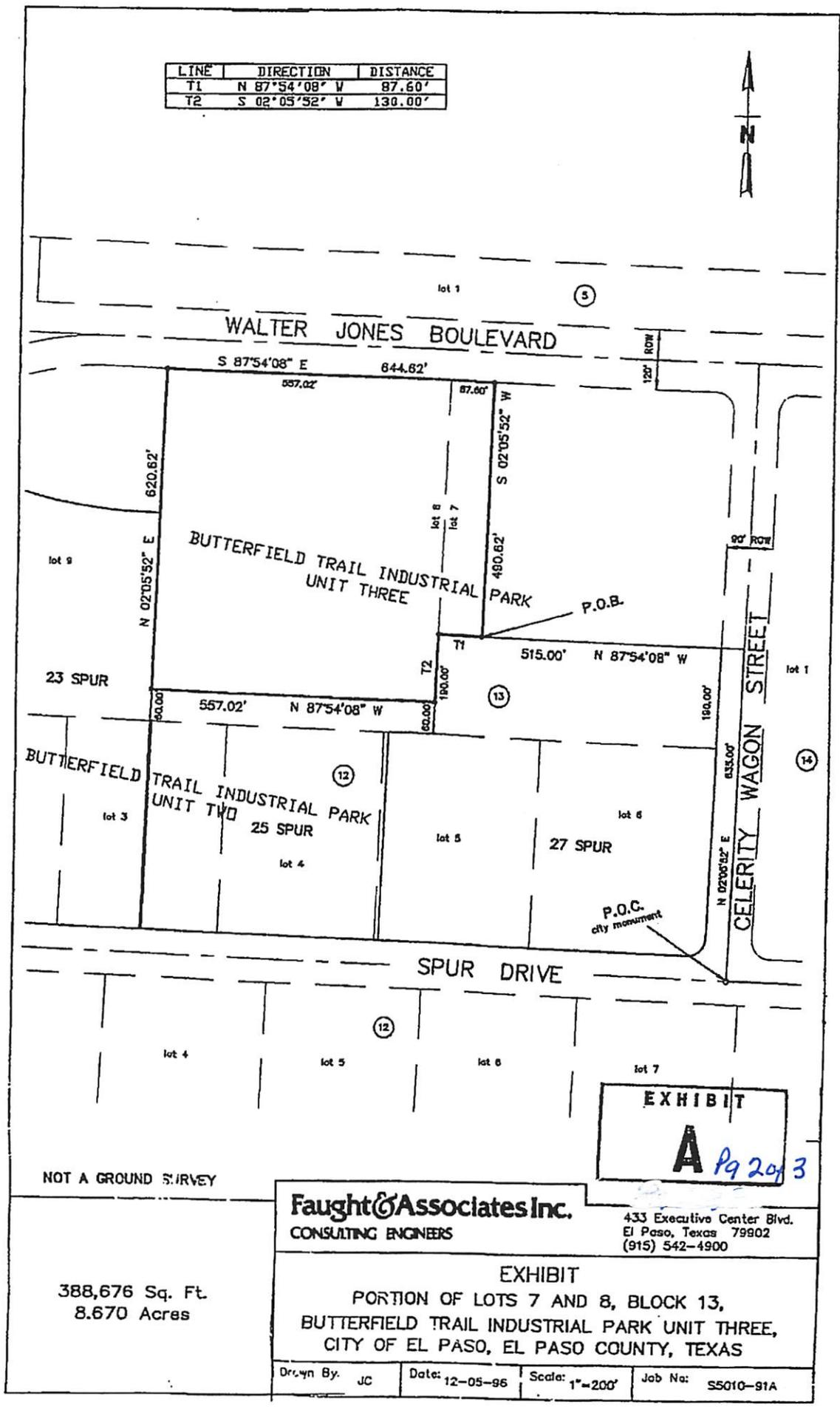
**NOT A GROUND SURVEY**

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



*Page 1 of 3*

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



NOT A GROUND SURVEY

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: 55010-91A
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WALTER JONES BLVD  
(THE PUBLIC FRONT)

SET 5/8" REBAR  
WITH YELLOW PLASTIC  
CAP STAMPED TO 21450  
BY DOCKLINGTON, I.C.

A PORTION OF LOT 9, BLOCK 13,  
BUTTERFIELD TRAIL INDUSTRIAL PARK UNIT THREE

OWNER: CITY OF EL PASO  
EL PASO INTERNATIONAL AIRPORT PROPERTY  
LAND AVAILABLE

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

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

ATTACHMENT

A

P73083

