

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

DEPARTMENT: AIRPORT

AGENDA DATE: December 14, 2010

CONTACT PERSON NAME AND PHONE NUMBER: Monica Lombraña/780-4724

DISTRICT(S) AFFECTED: All

SUBJECT:

This is a Resolution authorizing the City Manager to sign a Lessor's Approval of Assignment by and among the City of El Paso ("Lessor"), Haysland, Inc. d/b/a GoldCross Properties ("Assignor"), Calcaterra Properties, L.P. ("Assignee") and Joseph Calcaterra III ("Guarantor") for the following described property:

A portion of Lot 7 and 8, Block 5, El Paso International Airport Tracts, Replat "A", City of El Paso, El Paso County, Texas, municipally known and numbered as 6500 Boeing Dr., El Paso, Texas

BACKGROUND / DISCUSSION:

Original lease approved October 1, 1986. Assigned to Haysland, Inc., d/b/a/ GoldCross Properties on October 31, 2006. Haysland, Inc. is requesting assignment of the lease to Calcaterra Properties.

PRIOR COUNCIL ACTION:

October 31, 2006 Council approval of a Lessor's Approval of Assignment by and between the City of El Paso ("Lessor"), Thomas P. Bray and Linda M. Micu ("Assignor") and Haysland, Inc., d/b/a/ GoldCross Properties ("Assignee") for the same described property.

AMOUNT AND SOURCE OF FUNDING:

N/A Revenue generating.

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 by and among the City of El Paso ("Lessor"), Haysland, Inc., d/b/a GoldCross Properties ("Assignor"), Calcaterra Properties, L.P. ("Assignee") and Joseph Calcaterra III ("Guarantor") for the following described property:

A portion of Lot 7 and 8, Block 5, El Paso International Airport Tracts, Replat "A", City of El Paso, El Paso County, Texas, municipally known and numbered as 6500 Boeing Dr., El Paso, Texas ("Premises").

ADOPTED this the ____ day of _____ 2010.

THE CITY OF EL PASO

John F. Cook
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

WHEREAS, the ISL was subsequently assigned to Thomas P. Bray and Linda M. Micu, pursuant to a Lessor's Approval of Assignment, effective Aug. 1, 2002;

WHEREAS, the ISL was subsequently assigned to Haysland, Inc. d/b/a GoldCross Properties of El Paso, pursuant to a Lessor's Approval of Assignment, effective Oct. 31, 2006; and

WHEREAS, a request has been received by Lessor to assign the ISL to Calcaterra Properties, L.P.;

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, it is hereby agreed as follows:

1. **THE PREMISES.** The initial ISL and all subsequent modifications and assignments (collectively referred to herein as the "Lease") cover the following described leased premises:

A portion of Lot 7 and 8, Block 5, El Paso International Airport Tracts, Replat "A", City of El Paso, El Paso County, Texas, being more particularly described in **Exhibit A**, attached hereto and made a part hereof, and municipally known and numbered as 6500 Boeing Dr., El Paso, Texas ("Premises").

2. **CONSENT TO ASSIGNMENT.** Lessor hereby approves and consents to the assignment of the Lease from Assignor to 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. Further, this consent to assignment is expressly contingent upon the full satisfaction of all past rents and other fees due Lessor by Assignor at the time of assignment from Assignor to Assignee, as contemplated herein. Lessor has provided documentation to the parties of all outstanding debts referenced herein. Failure to satisfy all such outstanding obligations shall render this consent as void.
3. **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.
4. **GUARANTOR.** Assignor shall be released and discharged from all rights, privileges and obligations under the Lease arising from and after the effective date of the assignment of the Lease and 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, that Joseph Calcaterra III ("Guarantor") individually guarantees payment of rent and other charges or fees due to the Lessor and shall become fully liable for the prompt and complete performance of any and all obligations arising, or to arise, under the Lease.

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

ASSIGNOR: Haysland Inc.
d/b/a GoldCross Properties of El Paso
500 W. Paisano Dr.
El Paso, Texas 79901

Gary Crossland
500 W. Paisano Dr.
El Paso, Texas 79901

ASSIGNEE: Calcaterra Properties, L.P.
11401 Gateway West
El Paso, Texas 79936

GUARANTOR: Joseph Calcaterra III
P.O. Box 26428
El Paso, Texas 79926

7. **AUTHORIZED REPRESENTATIVE.** The persons signing this Lessor's Approval of Assignment on behalf of the Assignor, Assignee, or Guarantor represent and warrant that they have the authority legally to bind their respective party, 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 shall be the date this instrument is authorized by resolution of the City Council of the City of El Paso.

(SIGNATURES BEGIN ON THE FOLLOWING PAGE)

LESSOR: CITY OF EL PASO

Joyce A. Wilson
City Manager

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

Theresa Cullen
Deputy City Attorney

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 _____, 2010,
by **Joyce A. Wilson as City Manager of the City of El Paso, Texas.** (Lessor)

Notary Public, State of Texas

My Commission Expires:

(SIGNATURES CONTINUE ON THE FOLLOWING PAGE)

ASSIGNOR: Haysland Inc., d/b/a GoldCross
Properties of El Paso

Printed Name: Gary Crossland

Title: _____

ASSIGNOR'S ACKNOWLEDGEMENT

THE STATE OF TEXAS)

)

COUNTY OF EL PASO)

This instrument was acknowledged before me on this ____ day of _____, 2010,
by Gary Crossland as _____ of Haysland Inc. d/b/a GoldCross Properties of El
Paso (Assignor).

Notary Public, State of _____

My Commission Expires:

[SIGNATURES CONTINUE ON THE FOLLOWING PAGE]

GUARANTOR: Joseph Calcaterra III

Joseph Calcaterra III

GUARANTOR'S ACKNOWLEDGEMENT

THE STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on this ____ day of _____,
2010, by Joseph Calcaterra III (Guarantor).

Notary Public, State of _____

My Commission Expires:
