

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

DEPARTMENT: Aviation

AGENDA DATE: April 30, 2019

CONTACT PERSON NAME AND PHONE NUMBER: Monica Lombrana, A.A.E., Managing Director of Aviation and International Bridges
915 212-7301

DISTRICT(S) AFFECTED: District 2

CITY STRATEGIC GOAL 1: Create an Environment Conducive to Strong, Sustainable Economic Development.

SUBJECT:

This Resolution is to authorize the City Manager to sign a Recognition and Non Disturbance Agreement by and between the City of El Paso ("Ground Landlord") and Maximus Federal Services, Inc. ("Sublessee") for portions of Lots 1, 2, and 9 and all of Lot 10, Block 2, Butterfield Trail Industrial Park Unit One, Replat "A", City of El Paso, El Paso County, Texas municipally known and numbered as 12 Founders Blvd, El Paso, Texas

The site is 325,219 square feet.

BACKGROUND / DISCUSSION:

The U.S. Census Bureau is leasing the building at 12 Founders Blvd. through Maximus Federal Services, Inc. The agreement provides continued presence at 12 Founders Blvd. in the event of termination of the Ground Lease for any other reason than the expiration of the Ground Lease at the end of its term.

TERM:

N/A.

RENTAL FEES:

N/A

PRIOR COUNCIL ACTION:

N/A.

AMOUNT AND SOURCE OF FUNDING:


N/A: This is a revenue-generating item.

BOARD / COMMISSION ACTION:

N/A

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

DEPARTMENT HEAD:



Monica Lombrana, A.A.E.
Managing Director of Aviation & International Bridges

RESOLUTION

WHEREAS, the City of El Paso (“Ground Landlord”) is the owner of the property commonly known as 12 Founders Boulevard, and leased all or a portion of such real property to Hunt 12 Founders LLC, a Delaware limited liability company, the predecessor-in-interest to Althon REI II, LLC (“Master Lessor”) pursuant to the terms of that certain Ground Lease Agreement dated July 26, 2016 (the “Ground Lease”); and

WHEREAS, Master Lessor and Pacific Union Financial, LLC, the predecessor-in-interest to Nationstar Mortgage, LLC (“Sublessor”) entered into a Lease Agreement dated December 1, 2017 (the “Master Lease”); and

WHEREAS, Sublessor and Maximus Federal Services, Inc. (“Sublessee”) entered into a Sublease Agreement dated March 5, 2019 (the “Sublease”), a building located at 12 Founders Boulevard to Sublessee; and

WHEREAS, the Sublessee is interested in ensuring its continued presence at 12 Founders Boulevard in the event of termination of the Ground Lease for any reason other than the expiration of the Ground Lease at the end of its term;

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the City Manager be authorized to sign a Recognition and Non-Disturbance Agreement by and between the City of El Paso (“Ground Landlord”) and Maximus Federal Services, Inc., a Virginia corporation (“Sublessee”), allowing the Sublessee to act as Ground Lessor as its landlord in the event of termination of the Ground Lease for any reason other than the expiration of the Ground Lease at the end of its term, and allowing Sublessee to pay to Ground Landlord the rent due under the Ground Lease, regarding the following described property:

Portions of Lots 1, 2, and 9 and all of Lot 10, Block 2, Butterfield Trail Industrial Park Unit One, Replat “A”, an Addition to the City of El Paso, El Paso County, Texas, containing approximately 325,219 square feet or 7.4665 acres of land, more or less, municipally known and numbered as 12 Founders Blvd., El Paso, Texas 79925.

Dated this ____ day of _____ 2019.

CITY OF EL PASO

Dee Margo
Mayor

ATTEST:

Laura D. Prine
City Clerk

APPROVED AS TO FORM:



Josette Flores
Senior Assistant City Attorney

APPROVED AS TO CONTENT:

Monica Lombraña, A.A.E.
Managing Director of Aviation and
International Bridges

RECOGNITION AND NON-DISTURBANCE AGREEMENT

THIS NON-DISTURBANCE AND ATTORNMENT AGREEMENT (this "**Agreement**") is made and entered into as of the ____ day of _____, 2019, among THE CITY OF EL PASO ("**Ground Landlord**"), and MAXIMUS FEDERAL SERVICES, INC. a Virginia corporation ("**Sublessee**").

WITNESSETH:

A. Ground Landlord is the owner of the land located in El Paso County, Texas legally described on **Exhibit A** attached hereto and made a part hereof. Ground Landlord has leased all or a portion of such real property (the "**Real Property**") to Hunt 12 Founders LLC, a Delaware limited liability company, the predecessor-in-interest to Althon REI II, LLC ("**Master Lessor**") pursuant to the terms of that certain Ground Lease Agreement dated as of July 26, 2016 (as may be amended, amended and restated, modified, supplemented or split, from time to time the "**Ground Lease**").

B. Master Lessor and Pacific Union Financial, LLC, the predecessor-in-interest to Nationstar Mortgage, LLC ("**Sublessor**") have entered into a Lease Agreement dated December 1, 2017 (as may be amended, amended and restated, modified, supplemented or split, from time to time the "**Master Lease**").

C. Sublessor and Sublessee have entered into a Sublease Agreement dated March 5, 2019 (as amended, restated, supplemented or otherwise modified from time to time, the "**Sublease**"), a building located on the Real Property to Sublessee as further described in the Sublease (the "**Leased Premises**").

D. Capitalized terms used and not otherwise defined herein shall have the meanings given to them in the Ground Lease.

E. Ground Lessor and Sublessee desire to evidence their understanding with respect to the Ground Lease as hereinafter provided.

NOW, THEREFORE, in consideration of the mutual agreements herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree and certify as follows:

1. **Recognition, Non-Disturbance and Attornment.** Provided the Sublease is then in full force and effect, if the Ground Lease is terminated for any reason other than the expiration of the Ground Lease at the end of the term thereof, (the "**Termination**"), Ground Lessor shall provide prompt written notice thereof to Sublessee and Ground Lessor will not join Sublessee in any action or proceeding for the purpose of terminating the Ground Lease or for the purpose of recovering possession of the Leased Premises to Sublessee and upon election by Sublessee as delivered in writing to Ground Lessor (i) none of Sublessee's rights under the Sublease shall be affected, diminished or modified in any manner, including, without limitation, Sublessee's use and occupancy of the Leased Premises, and (ii) for the period commencing on the date of the reletting of the Premises to Sublessee upon default of the Tenant to the Ground Lease and ending on the

To Sublessee: MAXIMUS, INC.
1891 Metro Center Drive
Reston, VA 20190
Attn: Susan Boren or VP Real Estate

With a copy to: MAXIMUS, INC.
1891 Metro Center Drive
Reston, VA 20190
Attn: David Francis or General Counsel

With a copy to: MAXIMUS, Inc.
1891 Metro Center Drive
Reston, Virginia 20190
Richard J. Nadeau or CFO

Any party listed in this paragraph 4 may, by Notice as aforesaid, designate a different address for addresses for Notice intended for it.

No Notice shall be effective unless and until a copy of such Notice has been delivered to the intended recipient's Mortgagee(s) of which the sender shall have received Notice. Any party may change its address or the name and address of its attorneys by giving Notice in compliance with this Lease. Notice given on behalf of a party by any attorney who represents such party shall constitute Notice by such party.

5. Governing Law. This Agreement shall be governed by the laws of the State of Texas. If any of the terms of this Agreement or the application thereof to any person or circumstances shall to any extent be invalid or unenforceable, the remainder of this Agreement or the application of any such terms to any person or circumstances other than those as to which it is invalid or unenforceable shall not be affected thereby, and each term of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

6. Parties Bound. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their successors and assigns, and all covenants, conditions and agreements herein contained shall be construed as running with the land.

[Signatures on following page.]

IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the day and year first above written.

“GROUND LESSOR”

CITY OF EL PASO

By: _____
Name: _____
Title: _____

“SUBLESSEE”

MAXIMUS FEDERAL SERVICES INC.,
a Virginia corporation

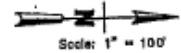
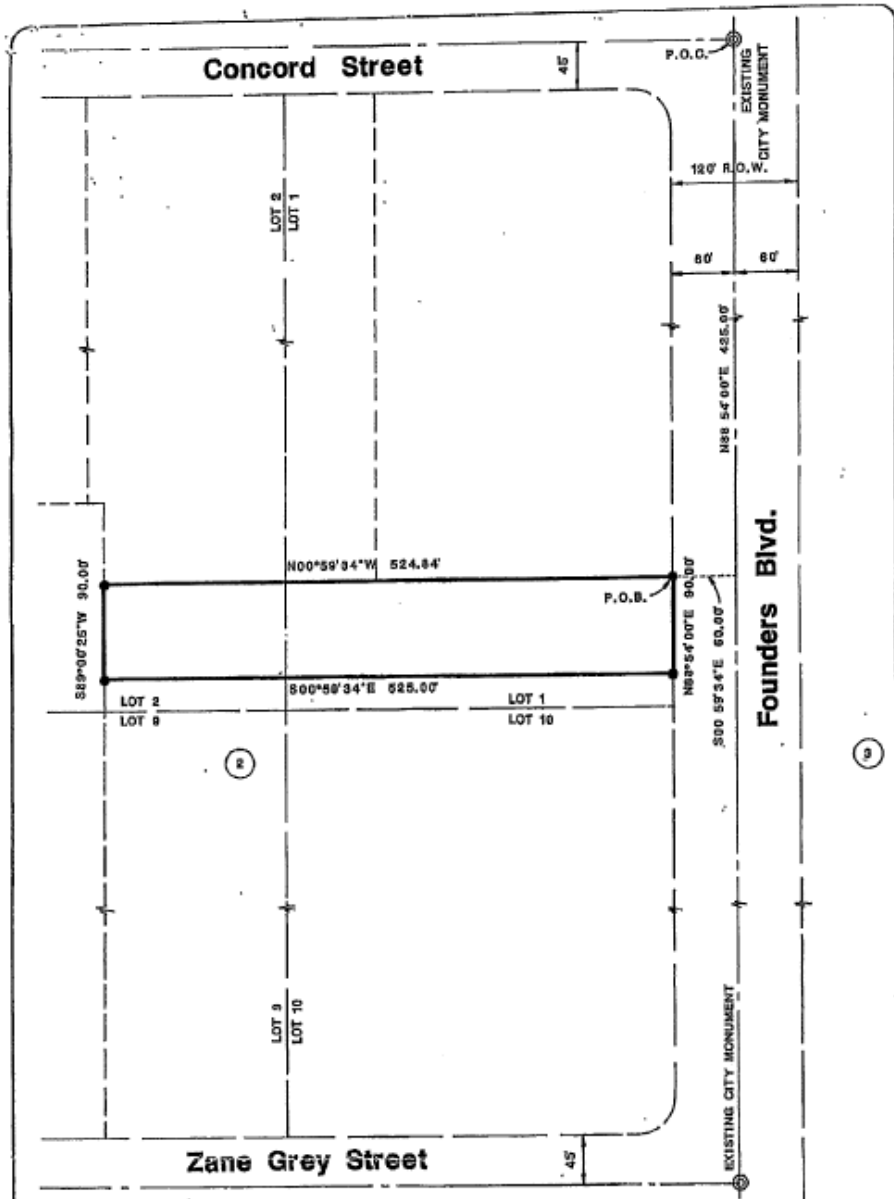
By: _____
Name: _____
Title: _____

EXHIBIT A

(to Recognition, Non-Disturbance and Attornment Agreement)

(Description of Property)

[SEE ATTACHED]



47,243 SQ.FT.
OR
1.085 ACRES

NOT A GROUND SURVEY

Faught & Associates Inc.
Consulting Engineers

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

BEING A PORTION OF LOT 1 AND LOT 2, BLOCK 2,
BUTTERFIELD TRAIL INDUSTRIAL PARK
UNIT ONE, REPLAT 'A',
CITY OF EL PASO, EL PASO COUNTY, TEXAS

Drawn By: LM	Date: 10-24-91	Scale: 1"=100'	Job No. 8010 - 90H
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**PROPERTY DESCRIPTION
47,243 SQUARE FEET OR
1.085 ACRES**

Being a portion of Lots 1 and 2, Block 2, Butterfield Trail Industrial Park Unit One, Replat A, 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 Concord Street (90 feet wide) and Founders Boulevard (120 feet wide);

THENCE, along the centerline of said Founders Boulevard, North $88^{\circ}54'00''$ East, a distance of 425.00 feet to a point;

THENCE, leaving said centerline, South $00^{\circ}59'34''$ East, a distance of 60.00 feet to a point in the south right-of-way line of said Founders Boulevard and **POINT OF BEGINNING** for the herein described Tract;

THENCE, along said south right-of-way line, North $88^{\circ}54'00''$ East, a distance of 90.00 feet to a point for corner;

THENCE, leaving said south right-of-way line, South $00^{\circ}59'34''$ East, a distance of 525.00 feet to a point for corner;

THENCE, South $89^{\circ}00'26''$ West, a distance of 90.00 feet to a point for corner;

THENCE, North $00^{\circ}59'34''$ West, a distance of 524.84 feet to the **POINT OF BEGINNING** and containing 47,243 square feet or 1.085 acres of land.

NOT A GROUND SURVEY

PREPARED BY:
Faight & Associates Inc.
El Paso, Texas
October 25, 1991
Job No. 5010-90H



ROMAN BUSTILLOS, P.E.
President
RANDY P. BROCK, P.E.
Executive Vice President
SERGIO J. ARANA, P.E.
Vice President - Engineering
ISAAC CARRASCO, SRES.
Survey Manager
TYPE 3 by 11/6/2007
TERRA Eng. No. 101316-00

METES AND BOUNDS DESCRIPTION
"REVISED LEASE AREA-12 FOUNDERS BOULEVARD"

A 6.3815 acre lease area being a portion of Lots 1, 2, 9 and 10 Block 2, Butterfield Trail Industrial Park Unit 1, Replat A, as recorded in Volume 56, Page 71, Plat Records, El Paso County, Texas, and being more particularly described by metes and bounds as follows.

*COMMENCING for reference at an existing City Monument found at the centerline line intersection of Founders Boulevard (120.00 feet wide) and Zane Grey Street (90.00 feet wide); **THENCE**, an existing City Monument found at the center line intersection of said Zane Grey Street and Butterfield Trail Boulevard (140.00 feet wide), bears South 02°12'07" West (South 00°59'34" East-record), a distance of 1745.59 feet; **THENCE**, leaving the centerline of Founders Boulevard and following the centerline of Zane Grey Street, South 02°12'07" West (South 00°59'34" East-record), a distance of 110.18 feet; **THENCE**, leaving said centerline, North 87°47'53" West (South 89°54'00" West-record), a distance of 45.00 feet to the west right-of-way line of Zane Grey Street for the **POINT OF BEGINNING** of the lease area herein described;*

***THENCE**, following the west right-of-way line of Zane Grey Street, South 02°12'07" West (South 00°59'34" East ~ record), a distance of 475.91 feet to the southeast corner of the lease area herein described;*

***THENCE**, leaving the west right-of-way line of Zane Grey Street, North 87°47'53" West (South 89°00'26" West-record), a distance of 530.00 feet to the southwest corner of the lease area herein described;*


***THENCE**, North 02°12'07" East (North 00°59'34" West-record), a distance of 525.00 feet to the south right-of-way line of Founders Boulevard for the northwest corner of the lease area herein described;*

***THENCE**, following the south right-of-way line of Founders Boulevard, South 87°54'19" East (North 88°54'00" East-record), a distance of 479.91 feet to a point of curvature;*

***THENCE**, continuing along the south right-of-way line of Founders Boulevard and following the arc of a curve to the right having a radius of 50.00 feet, a central angle of 90°06'26", an arc length of 78.63 feet and whose long chord bears South 87°47'53" East, a distance of 70.78 feet to the **POINT OF BEGINNING**.*

Said Lease Area contains 6.3815 acres (277,976.0 square feet) more or less and being subject to easements, restrictions or covenants of record.

Basis of Bearing is the Texas State Plans Coordinate System, Central Zone, N.A.D.83.


3-29-12
Aaron Alvarado, TX R.P.L.S. No. 6223
March 27, 2012
05160-0431-110 912-B-2-REP-A.doc



