

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

**DEPARTMENT:** Airport

**AGENDA DATE:** December 9, 2014

**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"), Camilla Nut Company, L.P. ("Assignor") and Golden Peanut Company, LLC ("Assignee") for the premises described as follows:

A Portion of Lots 6 and, Block 3, Butterfield Trail Industrial Park Unit One, City of El Paso, El Paso County Texas, containing approximately 3.078 acres and municipally known as 40 Butterfield Circle, El Paso, Texas.

**Current annual rent:** 134,084sf @ \$0.1728/sf = \$23,169.74/yr. Next rental rate adjustment scheduled for 3/1/2023 based upon 8% of then fair market value established by appraisal with a 20% cap.

**Term remaining:** There are eight years remaining on initial term, and one ten-year option.

**No subtenants.**

**BACKGROUND / DISCUSSION:**

The City of El Paso entered into a Butterfield Trail Industrial Park Lease with Jark Joint Venture effective January 1, 1983 for a term of forty (40) years with one (1) additional ten (10) year Option. Lease was subsequently assigned to Camilla Nut Company.

Assignor now desires to assign lease to Golden Peanut, LLC, which was founded in 1986 by the formation of a partnership between Columbian Peanut Company and Gold Kist Peanuts. Today the Golden Peanut Company, LLC is wholly owned by Archer Daniels Midland Company and is one of the world's largest agricultural processors and food ingredient providers. With more than 33,000 employees worldwide and serving customers in more than 140 countries, Golden Peanut has more than 470 crop procurement locations which will now include their Butterfield Trail location.

**PRIOR COUNCIL ACTION:**

1/1/1983 –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 by and between the City of El Paso ("Lessor"), Camilla Nut Company, LP ("Assignor"), and Golden Peanut Company, LLC ("Assignee") for the following described property:

A portion of Lots 6 and 8, Block 3, Butterfield Trail Industrial Park Unit 1, City of El Paso, El Paso County, Texas, containing 3.078 acres, more or less, which is municipally known and numbered as 19 Founders Boulevard, El Paso, Texas.

ADOPTED this \_\_\_\_ day of \_\_\_\_\_ 2014.


THE CITY OF EL PASO

ATTEST:


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

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

This Lessor's Approval of Assignment is made this \_\_\_\_ day of \_\_\_\_\_, 2014, by and among the City of El Paso ("Lessor"); Camilla Nut Company, L.P., a Texas limited partnership ("Assignor"); and Golden Peanut Company, LLC, a Georgia limited liability company ("Assignee").

**WHEREAS**, the Lessor entered into a Butterfield Trail Industrial Park Lease effective March 1, 1983 with Jark Joint Venture, which was subsequently assigned to Analytical Information Systems, Inc. pursuant to an Assignment of Lease dated December 30, 1986, which was then assigned to Kemp Enterprises, Inc. pursuant to that Lessor's Approval of Assignment with an effective date of August 1, 1998, which was then assigned to Wood Traditions Furniture Co., Inc. pursuant to that Lessor's Approval of Assignment with an effective date of September 25, 2007, and subsequently assigned to the Assignor pursuant to that Lessor's Approval of Assignment with an effective date of December 18, 2007 (collectively referred to herein as the "Lease") covering the following described leased premises:

A portion of Lots 6 and 8, Block 3, Butterfield Trail Industrial Park Unit 1, City of El Paso, El Paso County, Texas, containing 3.078 acres, more or less, being more particularly described in **EXHIBIT "A"**, attached hereto and made a part hereof, and municipally known and numbered as 19 Founders Blvd., El Paso, Texas ("Premises"), and

**WHEREAS**, the Assignor is requesting Lessor's approval to assign the Lease to Golden Peanut Company, LLC, a Georgia limited liability company ("Assignee").

**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.    **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 the 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.    **SECURITY DEPOSIT.** Prior to the effective date of this Lessor's Approval of Assignment, Assignee shall tender to Lessor an irrevocable letter of credit, or other surety

acceptable to the Director ("Security Deposit") in an amount equal to three (3) months of Ground Rental to guarantee the faithful performance of Assignee of its obligations under this Lease and the payment of all Ground 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 Assignment during which Assignee commits no Event of Default under Section 10.02 of this Lease. Such Security Deposit shall be in such form as shall be acceptable to Lessor in its reasonable discretion. Lessor's rights under this Section shall be in addition to all other rights and remedies provided to Lessor under this Agreement.

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

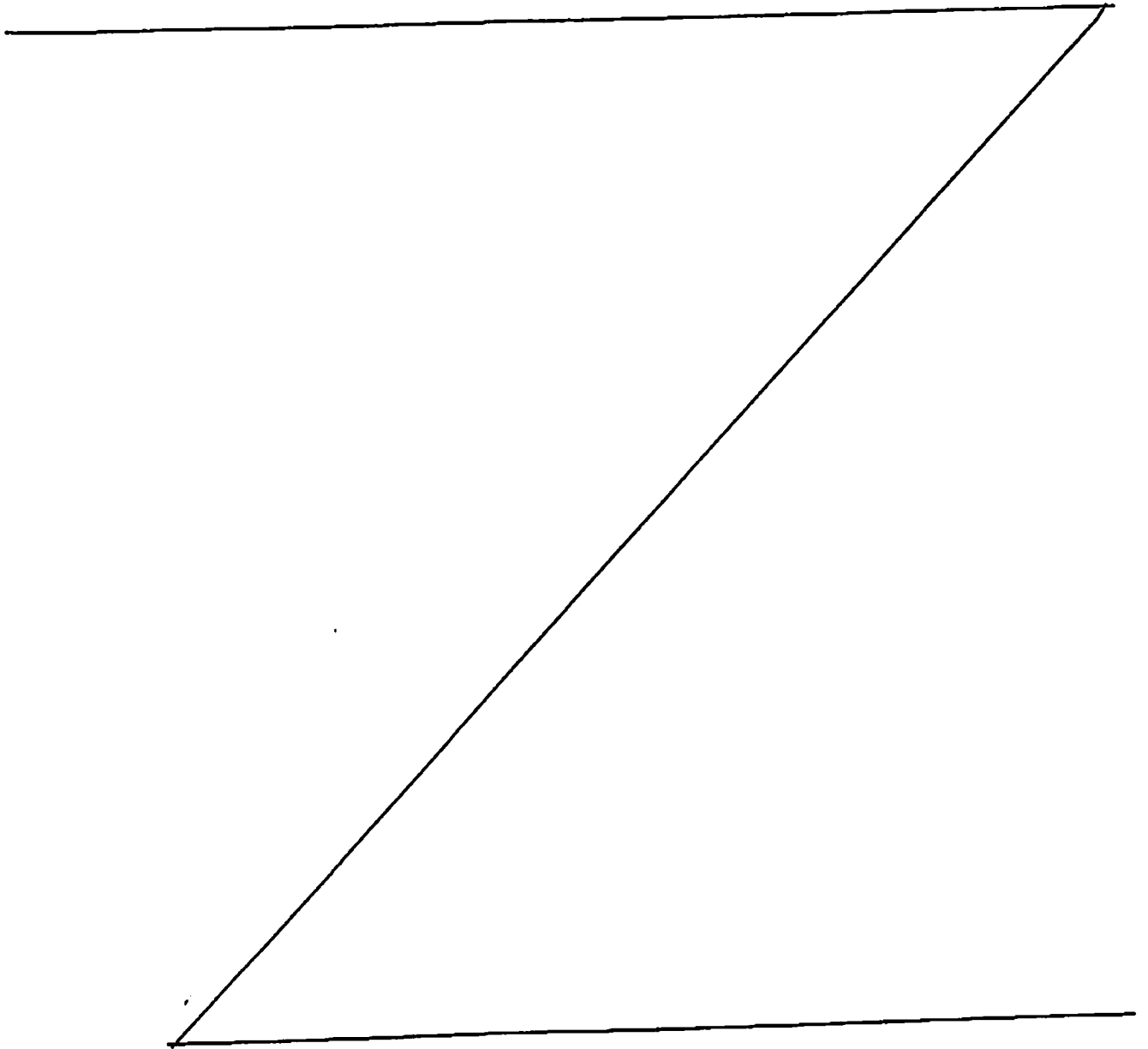
**ASSIGNEE:** Golden Peanut Company, LLC  
100 North Point Center East  
Suite 400  
Alpharetta, GA 30022  
Attn: Kris Lutt, President and CEO

**ASSIGNOR:** Camilla Nut Company, L.P.  
P.O. Box 508  
Camilla, GA 31730

7. **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 legal authority to bind the Assignee or Assignor, respectively, 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 parties have approved this Lessor's Approval of Assignment hereto this 9th day of December 2014.

(SIGNATURES BEGIN ON THE FOLLOWING PAGE)

(SIGNATURES BEGIN ON THE FOLLOWING PAGE)



LESSOR: CITY OF EL PASO

\_\_\_\_\_  
Tomás González  
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 \_\_\_\_\_, 2014, by Tomás González 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: CAMILLA NUT  
COMPANY, L.P., a Texas limited  
partnership

By: Harrell GP, Inc., a Texas corporation,  
its general partner

By: Marty Harrell  
Marty Harrell, President

**ASSIGNOR'S ACKNOWLEDGMENT**

STATE OF GEORGIA §  
COUNTY OF MITCHELL §

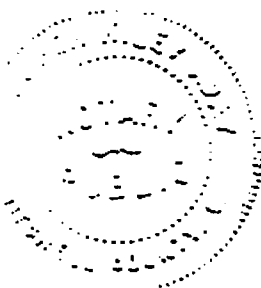
This instrument was acknowledged before me on the 17<sup>th</sup> day of November,  
2014, by Marty Harrell, president of Harrell GP, Inc., a Texas corporation, general partner of  
Camilla Nut Company, L.P., a Texas limited partnership, on behalf of said Limited Partnership  
(Assignor).

My commission expires:

Jennifer Kiley Adams  
NOTARY PUBLIC, STATE OF GEORGIA

Notary Public, Mitchell County, Georgia  
My Commission Expires August 5, 2015

Marty Harrell  
Printed Name: Marty Harrell  
Title: President



**SIGNATURES CONTINUE ON THE FOLLOWING PAGE)**

ASSIGNEE: Golden Peanut Company, LLC

  
Printed Name: Stuart E. Funderburg  
Title: Vice President & Secretary

ASSIGNEE'S ACKNOWLEDGMENT

THE STATE OF Illinois )  
COUNTY OF Macon )

This instrument was acknowledged before me on this 20<sup>th</sup> day of November, 2014,  
by Stuart E. Funderburg as Vice President and Secretary of Golden Peanut Company, LLC  
(Assignee).

  
Notary Public, State of Illinois

My Commission Expires:  
10/3/2017



NJP



CITY CLERK DEPT.

07 SEP 17 PM 1:44

PREPARED FOR: El Paso International Airport  
portion of Lots 6 and 8, Butterfield Trail Industrial Park  
Unit One, Replat "A"  
El Paso County, Texas

#### PROPERTY DESCRIPTION

Description of a parcel of land being a portion of Lots 6 and 8, Block 3, Butterfield Trail Industrial Park, El Paso County, Texas and being more particularly described by metes and bounds as follows:

From a point, said point being the centerline intersection of Founders Boulevard and Zane Grey Street, thence North  $88^{\circ} 54' 00''$  East along the centerline of Founders Boulevard a distance of 305.68 feet, thence North  $01^{\circ} 06' 00''$  West a distance of 60.00 feet to a point lying on the north right-of-way line of Founders Boulevard; thence, along said right-of-way line, 160.46 feet along the arc of a curve to the left, whose radius is 1,127.10 feet; whose interior angle is  $08^{\circ} 09' 24''$  and whose chord bears North  $84^{\circ} 49' 18''$  East a distance of 160.32 feet to THE POINT OF BEGINNING:

Thence North  $00^{\circ} 52' 28''$  West a distance of 417.52 feet;


Thence North  $88^{\circ} 53' 24''$  East a distance of 340.13 feet;

Thence South  $45^{\circ} 29' 13''$  East a distance of 27.56 feet;

Thence South  $01^{\circ} 16' 48''$  East a distance of 294.14 feet;  
to a point lying on the north right-of-way line of  
Founders Boulevard;

Thence continuing along said right-of-way line, South  
 $69^{\circ} 46' 25''$  West a distance of 161.51 feet;

Thence, continuing along said right-of-way line, 215.79 feet along the arc of a curve to the right, whose radius is 1127.10 feet, whose interior angle is  $10^{\circ} 58' 10''$  and whose chord bears South  $75^{\circ} 15' 30''$  West a distance of 215.46 feet to the POINT OF BEGINNING and containing 134,084.269 square feet, or 3.078 acres of land, more or less, subject to all easements of record.

  
Ramon E. Lara, P.E.  
CREMANS INC.

January 25, 1983



