

When recorded return to:
City Clerk
City of Cottonwood
827 North Main Street
Cottonwood, AZ 86362

06003351

FEE	
\$	✓
\$8	✓
\$5	
\$1	✓
<i>[Signature]</i>	

3827506 BK 4238 PG 960
Yavapai County, Arizona
Ana Weyman-Trujillo, Recorder
03/03/2005 02:30P PAGE 1 OF 7
YAVAPAI TITLE AGENCY
RECORDING FEE 7.00
SURCHARGE 8.00
POSTAGE 1.00

CONSENT OF CITY OF COTTONWOOD TO
ASSIGNMENT OF TENANT RIGHTS IN
LOT #116 REPLAT OF COTTONWOOD AIRPARK TRACT ONE
PARTS A&B

Once fully executed, this Consent is legally binding as of March 8, 2005,
2005 (the "Effective Date").

BACKGROUND

The Ground Lease

- A. The City of Cottonwood, formerly known as the Town of Cottonwood, an Arizona municipality, is the "Landlord" under a Ground Lease Agreement dated May 5, 1983 to encourage economic development of the Cottonwood Airport industrial property and to encourage economic development within the City of Cottonwood.
- B. Cottonwood Airpark L.C. ("CALC") is the successor in interest to Cottonwood Airpark I, L.C. as successor in interest to Cottonwood Airpark, Inc., which was originally named as "Tenant" under the Ground Lease Agreement.
- C. The Ground Lease Agreement was amended by the First Amendment dated November 30, 1983, the Second Amendment dated March 12, 1985, the Third Amendment dated August 21, 1985, the Fourth Amendment dated February 7, 1989, and the proposed Fifth Amendment dated January 1, 1993 which was never signed, the Sixth Amendment dated July 5, 1994, the Seventh Amendment dated September 16, 1997, the Eighth Amendment which was recorded December 22, 1998, the Ninth Amendment recorded October 1, 2001 and the Tenth Amendment recorded March 3rd 2003. The Ground Lease Agreement and all Amendments are collectively referred to as the "Ground Lease."
- D. A memorandum of the Ground Lease dated May 23, 1983 was recorded January 4, 1984 in Book 1597, pages 576-581 and thereafter corrected by an instrument recorded July 1, 1985 in Book 1734, pages 11-15 of the records of the Yavapai County Recorder (the "Memorandum of Ground Lease").
- E. On March 17th 2003 CALC made an assignment to Backus Family Investments, L.L.C., an Arizona limited liability company the rights possessed by CALC under its Ground Lease with the City of Cottonwood, i.e., to the South 1/2 of Lot 108 and Lots 109 through 118 (collectively, the "Lots"). Recorded March 17th, 2003 in Book 4011 of Official Records, page 368.

- 3.3 Acknowledges receipt of all rent and other amounts owned by Tenant to Landlord under the Ground Lease with respect to the Lot as of the Effective Date;
- 3.4 Ratifies, affirms and confirms the validity of all other terms and conditions of the Ground Lease;
- 3.5 Confirms that, to Landlord's knowledge, there are no uncured defaults or breaches by Tenant under the Ground Lease;
- 3.6 Agrees that the "Rent" for the Lot, which total .686 acres, or 29,866 square feet, is \$0.01 per square foot of area within the Improved Lot per year, as set forth in Sections 4B.2&3 of the Ground Lease Agreement dated May 5, 1983 per year with the next payment due on January 1, 2004
- 3.7 Agrees that the property taxes for the Lots shall be separately assessed and paid by ASSIGNEE;
- 3.8 Agrees that the failure of ASSIGNEE to pay rent, to pay property taxes, or to otherwise fully comply with the terms of the Ground Lease shall be considered a default by ASSIGNEE only as to the Lot and shall not be considered a default by Tenant under the Ground Lease affecting any of the other rights of BFI or affecting any other right of BFI or affecting any other property leased by BFI;
- 3.9 Agrees that in the event of a default by BFI under the Ground Lease, Landlord will exercise its rights solely against BFI and will not construe a default by BFI as a default by ASSIGNEE so long as ASSIGNEE pays its rent and timely performs all other obligations as required under the Ground Lease, with respect to the Lot, any default by BFI regarding its other obligations under the Ground Lease shall not be construed as a default by ASSIGNEE;
- 3.10 Acknowledges that ASSIGNEE intends to encumber its leasehold interest in the Lot to construct certain improvements which may be subject to an encumbrance in favor of a Lender. Landlord agrees to provide notice to the Lender and to BFI in the event of a default by ASSIGNEE under the Ground Lease pertaining to the Lot if requested by such Lender, and will execute a separate instrument to that effect if asked to do so.
- 3.11 Acknowledges that it shall look solely to ASSIGNEE for compliance with the insurance requirements of the Landlord under the Ground Lease with respect to the Lot;
- 3.12 Acknowledges that pursuant to Section 20 of the Ground Lease the address for the tenant under the Lot is:
Backus Investments L.L.C
901 Hidden Springs Lane Clarkdale, Az. 86324

THE CITY OF COTTONWOOD

By Brian Mickelsen
Brian Mickelsen, City Manager

Attest:
By Marianne Jimenez
Marianne Jimenez, City Clerk

Date: 2.4.05

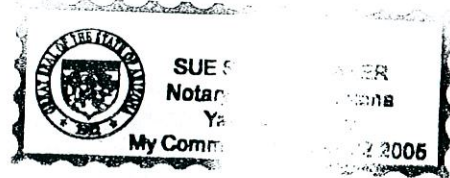
Date: 2-4-05

[illegible]

On this the 4TH of FEBRUARY, 2005, before me, the undersigned Notary Public, personally appeared **Brian Mickelsen** the City Manager of the City of Cottonwood, who is personally known to me or satisfactorily proved himself/herself to be the person who executed the foregoing Consent, acknowledging that he/she executed the same for the purposes therein contained, being authorized so to do.

Sue Schoonmaker
Notary Public

My Commission Expires: OCTOBER 22, 2005

[illegible]

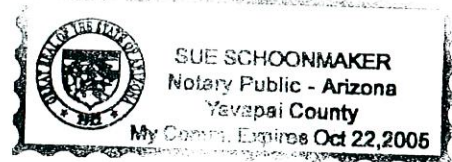
On this the 4TH of FEBRUARY, 2005, before me, the undersigned Notary Public, personally appeared **Marianne Jimenez** the City Clerk of the City of Cottonwood, who is personally known to me or satisfactorily proved himself/herself to be the person who executed the foregoing Consent, acknowledging that he/she executed the same for the purposes therein contained, being authorized so to do.

Dee Schoonmaker
Notary Public

My Commission Expires: OCTOBER 22, 2005

Approved as to Form Only


Brandon J. Kavanagh
Mangum, Wall, Stoops & Warden, PLLC
City Attorneys



06003351

EXHIBIT A

Lot 116, of COTTONWOOD AIRPARK, TRACT ONE, PARTS A & B, according to the plat of record in the office of the County Recorder, Yavapai County, Arizona, recorded in Book 25 of Maps, Page 19 and replatted in Book 48 of Maps, Page 90.