CITY OF EL PASO, TEXAS
DEPARTMENT HEAD'S SUMMARY REQUEST FOR COUNCIL ACTION (RCA)

DEPARTMENT: Aviation

AGENDA DATE: January 22, 2008

CONTACT PERSON/PHONE: Patrick T. Abeln, A.A.E. – 780-4724

DISTRICT(S) AFFECTED: 02

SUBJECT:
Resolution authorizing the City Manager to sign a Lessor's Approval of Assignment whereby the City of El Paso authorizes the assignment of the referenced Butterfield Industrial Park Lease Agreement to Kasco Butterfield, LLC.

BACKGROUND / DISCUSSION:
Effective August 1, 1981, the City of El Paso entered into a Butterfield Trail Industrial Park Lease with Contico International, Inc. for the property described as Lots 1 and 2, Block 7, Butterfield Trail Industrial Park, Unit One located at #24 Zane Grey, consisting of 267,147 sq. ft., more or less. Said Lease was assigned to Continental Sprayers International, Inc. on March 17, 1998.

The initial lease term is for forty (40) years expiring July 31, 2021 and containing one (1) 10-year renewal option. The parcel consists of 2 lots. The current lease rate for Lot 1 is $0.1632/sf which equates to $21,566.40/annum ($1,797.20/mo.); the lease rent for Lot $0.1452/sf which equates to $19,602.00/annum ($1,633.50/mo.). In accordance with the Lease, the rent is to be adjusted every ten (10) year anniversary to an amount equal to eight percent (8%) of the fair market value of the land with a 20% cap. The next rent adjustment will be due August 1, 2011

Continental Sprayers International, Inc. is selling the improvements to Kasco Butterfiel,d LLC and is requesting Lessor's Approval of Assignment of the underlying ground lease.

Please refer to the attached map for the location of the property in Butterfield Trail Industrial Park.

PRIOR COUNCIL ACTION:
Lessor's Approval of Assignment Continental Sprayers International, Inc. on March 17, 1998.

AMOUNT AND SOURCE OF FUNDING:
This is a revenue generating contract.

BOARD / COMMISSION ACTION:
Approved by the Airport Board on November 15, 2007

CITY CLERK DEPT.
08 JAN 11 PM 3:44

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

LEGAL: (if required) _____ **FINANCE:** (if required) _____
Raymond L. Telles, Asst. City Attorney

OTHER: Patrick T. Abeln, A. A. E., Director of Aviation _____
(Example: if RCA is initiated by Purchasing, client department should sign also)

Information copy to appropriate Deputy City Manager

APPROVED FOR AGENDA:

CITY MANAGER: _____ **DATE:** _____

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"), Continental Sprayers International, Inc. ("Assignor"), Kasco Butterfield, LLC ("Assignee") and Kasco Ventures, Inc. ("Guarantor") for the following described property:

> Lots 1 and 2, Block 7, Butterfield Trail Industrial Park Unit 1, City of El Paso, El Paso County, Texas, municipally known and numbered as 24 Zane Grey, El Paso, Texas.

ADOPTED this ____ day of _____ 2008.

THE CITY OF EL PASO

_____
John F. Cook
Mayor

ATTEST:

_____
Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:

_____
Raymond L. Telles
Assistant City Attorney

APPROVED AS TO CONTENT:

_____
Patrick T. Abeln, A. A. E.
Director of Aviation

CITY CLERK DEPT.
08 JAN 11 PM 3:44

Doc. No.: 35480
Doc. Name: LAA Continental Sprayers to Kasco Butterfield (24 Zane Grey)
Doc. Author: RTEL

STATE OF TEXAS §
§
COUNTY OF EL PASO §

LESSOR'S APPROVAL OF ASSIGNMENT

The City of El Paso ("Lessor") entered into a Butterfield Trail Industrial Park Lease effective August 1, 1981 between the Lessor and Contico International, Inc., which was subsequently assigned to Continental Sprayers International, Inc. ("Assignor") pursuant to a Lessor's Approval of Assignment with an effective date of March 17, 1998 (collectively referred to herein as the "Lease") covering the following described leased premises:

> Lots 1 and 2, Block 7, Butterfield Trail Industrial Park Unit 1, 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 24 Zane Grey, El Paso, Texas ("Premises").

1. **CONSENT TO ASSIGNMENT.** Lessor hereby approves and consents to the assignment of the Lease from Assignor to Kasco Butterfield LLC, a Texas Limited Liability Company ("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 and Kasco Ventures, Inc. agrees to become Guarantor to such 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. **GUARANTOR.** Kasco Ventures, Inc., as the manager of Assignee, agrees to become the guarantor of the Lease when Assignee receives said Lease from Assignor pursuant to the assignment of lease contemplated by this instrument. Kasco Ventures, Inc. ("Guarantor") hereby confirms that it will remain as Guarantor of the Lease, whereby Guarantor guarantees payment of rent and other charges or fees due to the Lessor and shall remain fully liable for the prompt and complete performance of any and all obligations arising, or to arise, under the Lease.

4. **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.

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

08 JAN 11 PM 3:46
CITY CLERK DEPT.

ASSIGNEE: Kasco Butterfield, LLC
1600 Fourth Avenue
El Paso, TX 79901

ASSIGNOR: Continental Sprayers International, Inc.
27 Guenter Blvd.
St. Peters, MO 63376

GUARANTOR: Kasco Ventures, Inc.
1600 Fourth Avenue
El Paso, Texas 79901

6. **AUTHORIZED REPRESENTATIVE.** The persons signing this Lessor's Approval of Assignment on behalf of the Assignee, Assignor and Guarantor represent and warrant that they have the legal authority to bind the Assignee, Assignor and Guarantor, respectively, to the provisions of this Lessor's Approval of Assignment.

7. **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.

8. **EFFECTIVE DATE.** The parties have approved this Lessor's Approval of Assignment hereto this _____ day of _____ 2008.

(SIGNATURES BEGIN ON THE FOLLOWING PAGE)

08 JAN 11 PM 3:46
CITY CLERK DEPT.

LESSOR: CITY OF EL PASO

_____
Joyce A. Wilson
City Manager

APPROVED AS TO FORM:

_____
Raymond L. Telles
Assistant City Attorney

APPROVED AS TO CONTENT:

_____
Patrick T. Abeln, 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 _____, 2008, by **Joyce A. Wilson** as **City Manager** of the **City of El Paso, Texas** (Lessor).

_____
Notary Public, State of Texas

My Commission Expires:
_____

CITY CLERK DEPT.
08 JAN 11 PM 3:45

(SIGNATURES CONTINUE ON THE FOLLOWING PAGE)

ATTEST:

Lisa Phelps

Printed Name: Lisa Phelps

ASSIGNOR:
Continental Sprayers International, Inc.

Colleen J Morgan

Printed Name: Colleen J Morgan
Title: EVP & CFO

ASSIGNOR'S ACKNOWLEDGMENT

THE STATE OF Missouri)
)
COUNTY OF Lincoln)

This instrument was acknowledged before me on this 10 day of January, 2008, by Colleen J. Morgan as EVP & CFO of **Continental Sprayers International, Inc.** (Assignor).

Elizabeth Schreiber
Notary Public, State of Missouri

My Commission Expires:
June 11, 2008

ELIZABETH SCHREIBER
Notary Public-Notary Seal
State of Missouri
Lincoln County
My Commission Expires Jun 11, 2008

(SIGNATURES CONTINUE ON THE FOLLOWING PAGE)

CITY CLERK DEPT.
08 JAN 11 PM 3:46

ASSIGNEE: Kasco Butterfield, LLC

Printed Name: Veronica K. Callaghan
Title: Vice President

ASSIGNEE'S ACKNOWLEDGMENT

THE STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on this 11th day of January, 2008, by Veronica Callaghan as ~~President~~ Vice President of **Kasco Butterfield, LLC** (Assignee).

My Commission Expires: Sept. 29, 2009

Notary Public, State of Texas

ROSIE AGUILAR
NOTARY PUBLIC
STATE OF TEXAS
EXPIRES
SEPT. 29, 2009

08 JAN 11 PM 3:46
CITY CLERK DEPT.

Doc. No.: 35480
Doc. Name: Continental Sprayers to Kasco Butterfield LLC (24 Zane Grey)
Doc. Author: RTEL

ATTEST:

_____

Printed Name: _____

GUARANTOR: Kasco Ventures, Inc.

_____

Printed Name: Veronica Callaghan

Title: Vice President

GUARANTOR'S ACKNOWLEDGMENT

THE STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on this 11th day of January, 2008, by Veronica Callaghan as Vice President of **Kasco Ventures, Inc.** (Guarantor).

My Commission Expires:

_____

BESSIE AGUILAR
NOTARY PUBLIC
STATE OF TEXAS
EXPIRES
SEPT. 29, 2009

_____

Notary Public, State of Texas

08 JAN 11 PM 3:46
CITY CLERK DEPT.

Doc. No.: 35480
Doc. Name: Continental Sprayers to Kasco Butterfield LLC (24 Zane Grey)
Doc. Author: RTEL

EXHIBIT A
PROPERTY DESCRIPTION

Description of a parcel of land being a portion of Section 30, Block 80, Township 2, Texas and Pacific Railroad Co. Surveys, El Paso County, Texas and being more particularly described by metes and bounds as follows:

From a point, said point being the intersection of the centerline of Founders Boulevard with the centerline of Zane Grey Street; thence South 00° 59' 34" East along the centerline of Zane Grey Street a distance of 590.60 feet; thence North 89° 00' 26" East a distance of 45.00 feet to a point lying on the easterly right-of-way line of Zane Grey Street and said point being the POINT OF BEGINNING:

Thence North 00° 59' 34" West along the easterly right-of-way line of Zane Grey Street a distance of 495.74 feet;

Thence 54.91 feet along the arc of a curve to the right whose interior angle is 89° 53' 34", whose radius is 35.00 feet and whose chord bears North 43° 57' 13" East a distance of 49.45 feet to a point lying on the southerly right-of-way line of Founders Boulevard;

Thence North 88° 54' 00" East along said southerly right-of-way line a distance of 225.86 feet;

Thence 240.74 feet along said southerly right-of-way line and along the arc of a curve to the left, whose interior angle is 11° 03' 38", whose radius is 1,247.11 feet, and whose chord bears North 88° 22' 11" East a distance of 240.37 feet;

Thence South 00° 59' 34" East a distance of 554.77 feet;

Thence South 89° 00' 26" West a distance of 500.00 feet to the POINT OF BEGINNING and containing in all 267,147.049 square feet or 6.133 acres of land, more or less.

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EXHIBIT
A

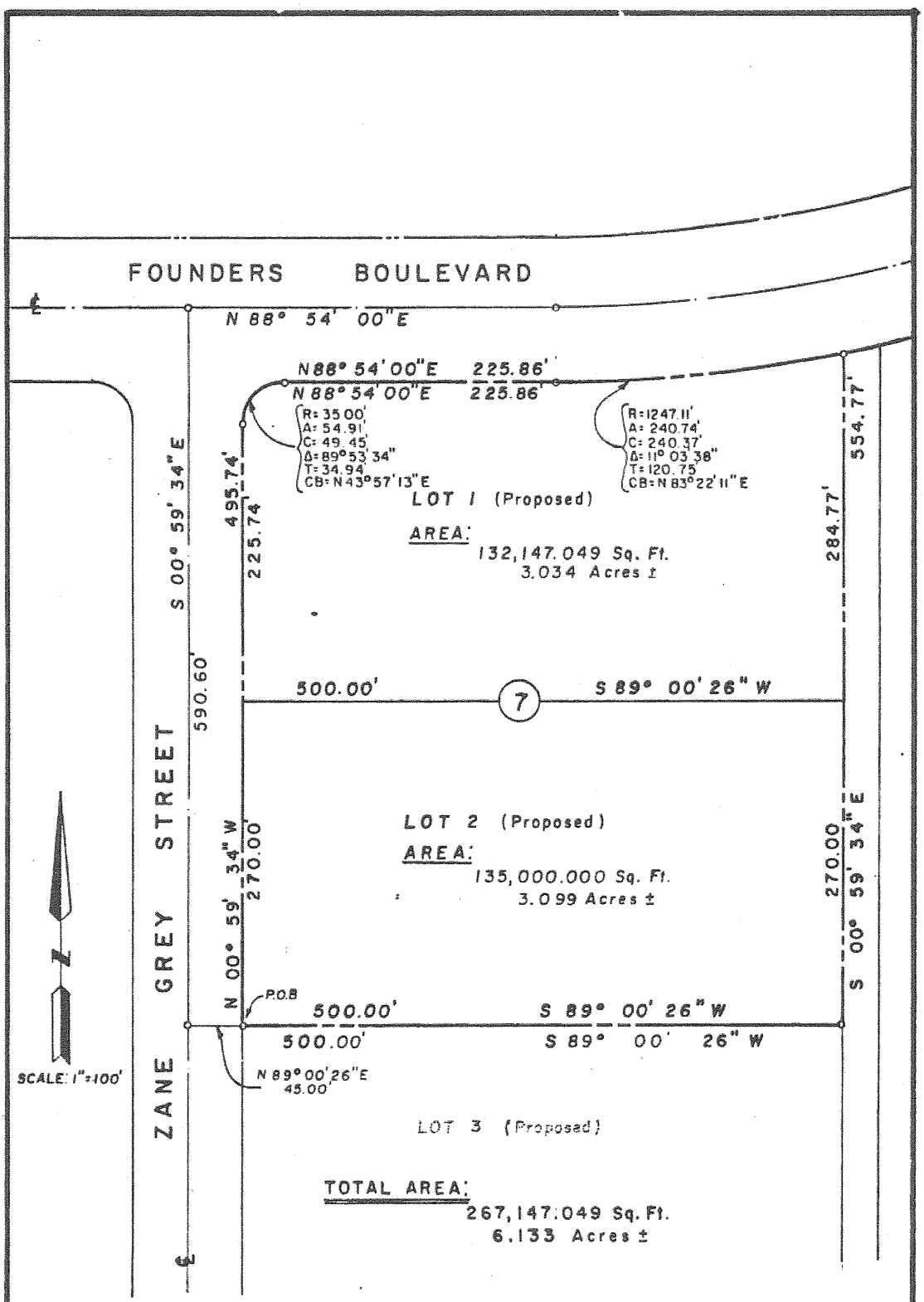

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EXHIBIT
A

2 OF 3

EXHIBIT A

"NOT A SURVEY"

PLAT

BEING A PORTION OF SECTION 30, BLOCK 80, TOWNSHIP 2, TEXAS & PACIFIC RAILROAD Co. SURVEYS.
EL PASO COUNTY, TEXAS

FIELD:	DRAWN: J. B. S.	CREMANS, INC. ENGINEERS – PLANNERS EL PASO, TEX.
CHK'D.: R. E. LARA	APPV'D.: R. E. LARA	
DATE: MAY 21, 1981	FILE Nº	

24 zane grey (1056x816x24b jpeg)

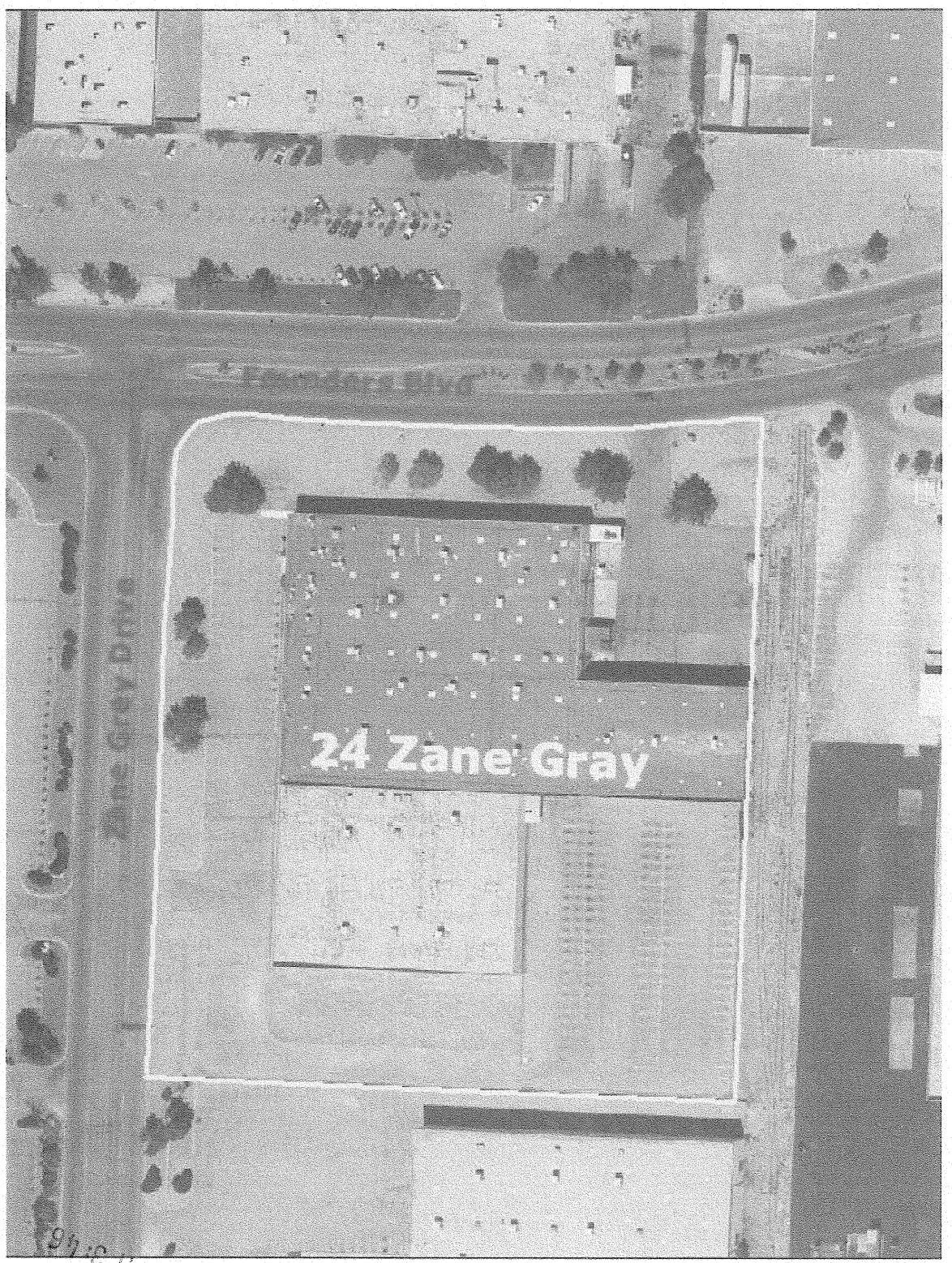

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EXHIBIT
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