

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

**DEPARTMENT:** AIRPORT

**AGENDA DATE:** September 25, 2007

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

**DISTRICT(S) AFFECTED:** 02

**SUBJECT:**

Resolution authorizing City Manager to sign a Lessor's Approval of Assignment of the Butterfield Trail Industrial Park Lease by and between the City of El Paso ("Lessor"), Kemp Enterprises, Inc. ("Assignor") and Wood Traditions Furniture Co., Inc. ("Assignee").

**BACKGROUND / DISCUSSION:**

The City of El Paso entered into a Butterfield Trail Industrial Park Lease effective January 1, 1983 with Jark Joint Venture for the property located at #19 Founders Blvd., consisting of 134,084 sq. ft., more or less, and described as Portions of Lots 6 and 8, Block 3, Butterfield Trail Industrial Park, Unit One. The lease term is for forty (40) years expiring February 28, 2023 and contains one (1) 10-year option (03/01/2023 – 02/28/2033) for renewal. The Lease was assigned to Analytical Information Systems, Inc. on December 30, 1986 and subsequently assigned July 21, 1998 to Kemp Enterprises, Inc.

The current lease rate is approximately \$0.1440/sf which equates to \$19,308.12/annum (\$1,609.01/mo.). In accordance with the Lease, the rent is to be adjusted at each ten (10) year lease 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 January 1, 2013.

Wood Traditions Furniture Co., Inc. is currently sub leasing the building, which consists of administrative offices and warehouse facilities. Please refer to the attached map for the location of the property in the Butterfield Trail Industrial Park.

**ANALYSIS:**

Kemp Enterprises, Inc. is selling the improvements to Wood Traditions Furniture Co., Inc., a Texas corporation, and is requesting Lessor's Approval of Assignment of the underlying ground lease. By this document, the City will approve the assignment of the ground lease contingent upon Kemp Enterprises, Inc. remaining as guarantor of the Lease and Assignee's obligation to adhere to all the terms and conditions of the Lease.

**PRIOR COUNCIL ACTION:**

Lessor's Approval of Assignment to Analytical Information Systems, Inc., August 1, 1998

**AMOUNT AND SOURCE OF FUNDING:**

There will be no expense to Airport.

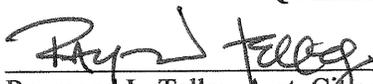
**BOARD / COMMISSION ACTION:**

N/A

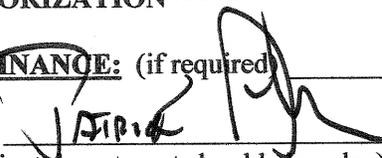
\*\*\*\*\*REQUIRED AUTHORIZATION\*\*\*\*\*

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**LEGAL:** (if required)

  
Raymond L. Telles, Asst. City Attorney

**FINANCE:** (if required)



**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**

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**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"), Kemp Enterprises, Inc. ("Assignor") and Wood Traditions Furniture Co., Inc. ("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 the \_\_\_\_ day of \_\_\_\_\_ 2007.

THE CITY OF EL PASO

\_\_\_\_\_  
John F. Cook  
Mayor

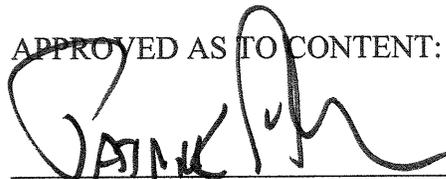
ATTEST:

\_\_\_\_\_  
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



19 Founders

Founders Blvd

Zane Grey Drive

Leigh Fisher Blvd

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 March 1, 1983 between the Lessor and Jark Joint Venture, which was subsequently assigned to Analytical Information Systems, Inc. pursuant to an Assignment of Lease dated December 30, 1986, which was thereafter assigned to Kemp Enterprises, Inc. ("Assignor") by Lessor's Approval of Assignment with an effective date of August 1, 1998 (collectively referred to herein as the "Agreement") 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").

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1. **CONSENT TO ASSIGNMENT.** Lessor hereby approves and consents to the assignment of the Agreement from Assignor to Wood Traditions Furniture Co., Inc., a Texas corporation ("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 Agreement from and after the effective date of the assignment of the Agreement to Assignee, and upon the further condition that Assignee agrees to accept and abide by all the terms, covenants, and conditions of the Agreement.
2. **PROOF OF INSURANCE AND INDEMNIFICATION.** Assignee has provided a certificate of insurance to evidence compliance with the insurance requirements of the Agreement and expressly agrees to be bound by the indemnification provisions contained in the Agreement.
3. **GUARANTOR.** Assignor 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 AGREEMENT.** Except as expressly modified herein, no provision of this consent alters or modifies any of the terms and conditions of the Agreement; all other terms and conditions of the Agreement 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:

**ASSIGNEE:** Wood Traditions Furniture Co., Inc.  
19 Founders Blvd.  
El Paso, Texas 79906  
Attn: Carlos Amaya, President

**ASSIGNOR:** Kemp Enterprises, Inc.  
212 Pendleton Street  
High Point, NC 27260  
Attn: Bill Kemp, President

6. **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.
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 executed this Lessor's Approval of Assignment hereto this \_\_\_\_\_ day of \_\_\_\_\_ 2007.

(SIGNATURES BEGIN ON THE FOLLOWING PAGE)

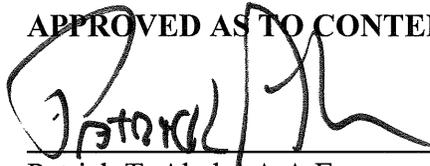
**LESSOR: CITY OF EL PASO**

\_\_\_\_\_  
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 \_\_\_\_\_, 2007, 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)

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ATTEST:

ASSIGNOR: Kemp Enterprises, Inc.

Printed Name: William P. Kemp

William P. Kemp  
Printed Name: WILLIAM P. KEMP  
Title: PRESIDENT

CITY CLERK DEPT.  
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ASSIGNOR'S ACKNOWLEDGMENT

THE STATE OF North Carolina  
COUNTY OF Guilford

This instrument was acknowledged before me on this 28 day of August, 2007,  
by William P. Kemp as President of Kemp Enterprises, Inc. (Assignor).

Leessa G. Black  
Notary Public, State of North Carolina

My Commission Expires:  
August 6, 2011

LEESSA G. BLACK  
GUILFORD COUNTY,  
NORTH CAROLINA

NOTARY PUBLIC  
(SIGNATURES CONTINUE ON THE FOLLOWING PAGE)

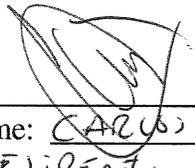
*sed*

ATTEST:

ASSIGNEE: Wood Traditions Furniture Co., Inc.

Printed Name: CARLOS E. AMAYA

Printed Name: CARLOS E. AMAYA  
Title: PRESIDENT



CITY CLERK DEPT.  
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ASSIGNEE'S ACKNOWLEDGMENT

THE STATE OF Texas )  
COUNTY OF EL PASO )

This instrument was acknowledged before me on this 7 day of September, 2007, by CARLOS AMAYA as PRESIDENT of Wood Traditions Furniture Co. (Assignee).

My Commission Expires: 03-05-2008

Maria Esther Moreno  
Notary Public, State of Texas



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;

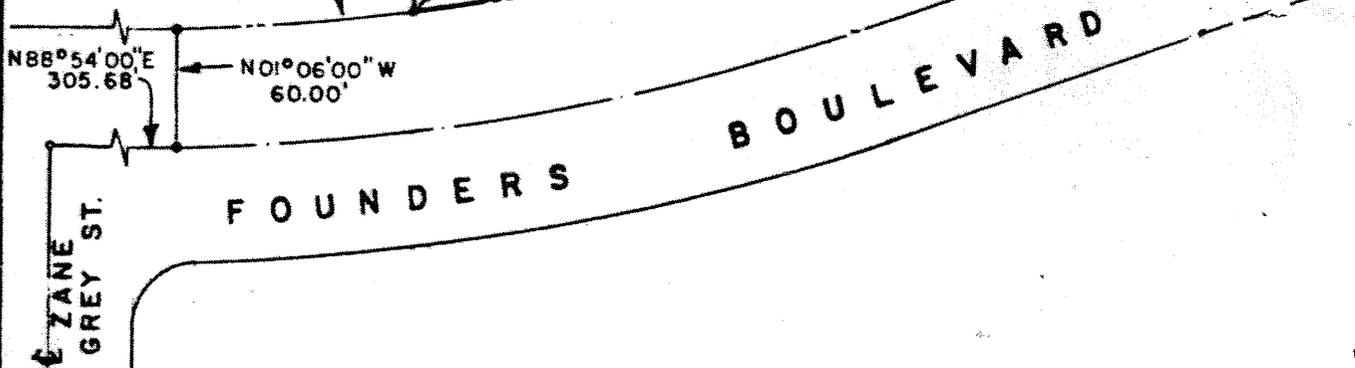
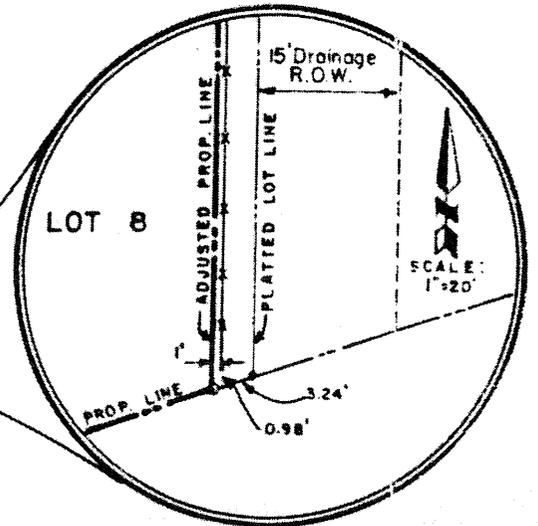
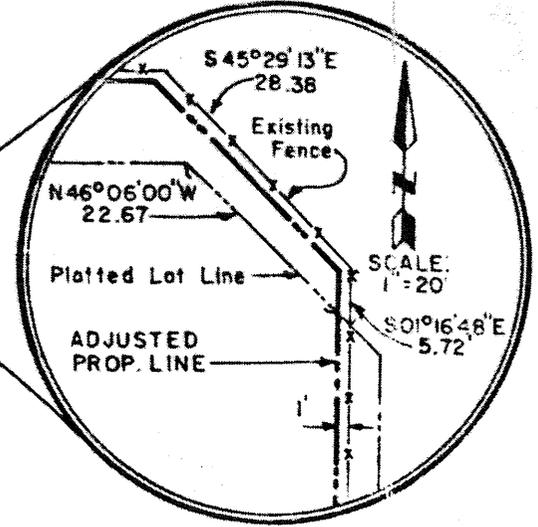
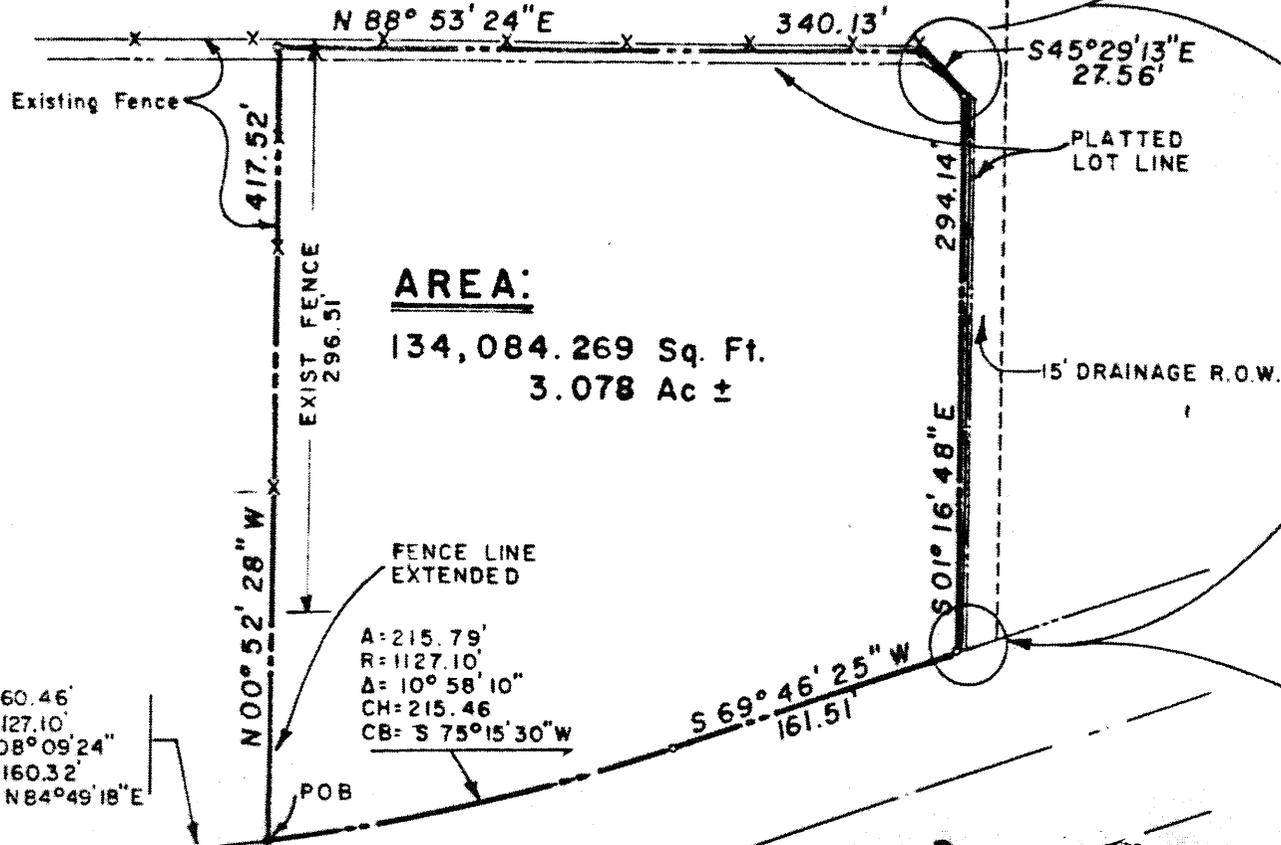
Thence, continuing along said right-of-way line, 215.79 feet along  
the arc of a curve to the right, whose radius is 1127.10 feet, whose interior angle  
is  $10^{\circ} 58' 10''$  and whose chord bears South  $75^{\circ} 15' 30''$  West a distance of 215.46  
feet to the POINT OF BEGINNING and containing 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

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POND SITE



REVISED

PL  
BEING A PORTION OF LOT  
BUTTERFIELD TRAIL AND  
UNIT ONE, REPLAT "A",  
EL PASO. COUNT

FIELD:	DRAWN: J. B. S.
CHECKED: R. S.	APP'D:
DATE:	

"NOT A SURVEY"