

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

DEPARTMENT: AIRPORT
AGENDA DATE: October 31, 2006
CONTACT PERSON/PHONE: Patrick T. Abeln, A.A.E. – 780-4724
DISTRICT(S) AFFECTED: 03

SUBJECT:

AUTHORIZE the City Manager to sign Lessor's Approval of Assignment by and between the City of El Paso, Lessor, Thomas P. Bray and Linda M. Micu, Assignor and Haysland, Inc., d/b/a GoldCross Properties, Assignee for the property located at 6500 Boeing.

BACKGROUND / DISCUSSION:

On October 1, 1986, the City of El Paso entered into an Industrial Site Lease with Ron Martin & Associates, Inc. for a term of 38 years and 6 months with an option of ten years for the property located at 6500 Boeing, consisting of approximately 8.2 acres (356,594 sq. ft.), more or less, and described as a portion of Lots 7 and 8, Block 5, EPIA Tracts, Replat A.

The Lease was subsequently assigned December 30, 1987 to El Paso Sand Products; January 4, 1988 to American Bank of Commerce; September 20, 1988 to Sunwest Bank of Albuquerque, N.A.; December 19, 1995 to 1800 Lee Trevino, L.P.; September 1, 1997 to Boeing/Skypark II, Ltd.; December 1, 1998 to El Paso Coalition for the Homeless; October 1, 2000 to James E. Branson and assigned to the current Lessee, Thomas P. Bray and Linda M. Micu, on August 1, 2002.

The land has been developed with office buildings and currently leased to various tenants. In accordance with the Lease, the rent was adjusted from \$0.27/sq. ft. on October 1, 2006 to a rate of \$0.324/sq. ft. which equates to \$115,536.47/annum (\$9628.04/mo.). The lease provides for adjustments at each five (5) year lease anniversary to eight percent (8%) of the fair market value, not to exceed twenty percent (20%) of the preceding period. The next increase will be due October 1, 2011.

PRIOR COUNCIL ACTION:

On September 4, 2002 Lessor's Approval of Assignment from James E. Branson to Thomas P. Bray and Linda M. Micu.

AMOUNT AND SOURCE OF FUNDING:

How will this item be funded? Has the item been budgeted? If so, identify funding source by account numbers and description of account. Does it require a budget transfer?

N/A

BOARD / COMMISSION ACTION:

The request for Lessor's Approval of Assignment of the Thomas P. Bray and Linda M. Micu lease agreement was presented to the Airport Advisory Board on October 19, 2006 and was unanimously approved.

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

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

OTHER: Patrick T. Abeln, A. A. E., Director of Aviation Patrick T. Abeln
(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"), Thomas P. Bray and Linda M. Micu ("Assignor") and Haysland, Inc., d/b/a GoldCross Properties ("Assignee") for the following described property:

A portion of Lot 7 and 8, Block 5, El Paso International Airport Tracts, Replat "A", City of El Paso, El Paso County, Texas, municipally known and numbered as 6500 Boeing Dr., El Paso, Texas ("Premises").

ADOPTED this the ____ day of _____ 2006.

THE CITY OF EL PASO

John F. Cook
Mayor

ATTEST:

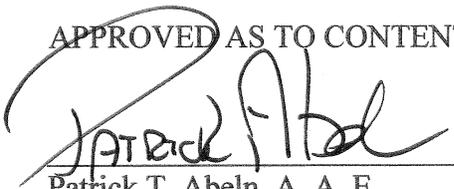
Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:



Raymond L. Telles
Assistant City Attorney

APPROVED AS TO CONTENT:



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

STATE OF TEXAS §
 §
COUNTY OF EL PASO §

LESSOR'S APPROVAL OF ASSIGNMENT

This Lessor's Approval of Assignment is made this ____ day of _____, 2006, by and between the City of El Paso ("Lessor"), Thomas P. Bray and Linda M. Micu (collectively referred to as "Assignor"), Haysland, Inc. d/b/a GoldCross Properties of El Paso ("Assignee"), and Gary Crossland ("Guarantor").

WHEREAS, the **City of El Paso** entered into an Industrial Site Lease ("ISL") with an Effective Date of October 1, 1986 with **Ron Martin and Associates, Inc.** for Lots 7 and 8 of Block 5 of the leased premises more fully described below;

WHEREAS, the ISL was assigned to **El Paso Sand Products, Inc.**, pursuant to a Lessor's Approval of Assignment executed by Lessor on December 30, 1987;

WHEREAS, the ISL was then assigned to **American Bank of Commerce** through a Collateral Assignment of Lease and Security Agreement with an effective date of January 4, 1988;

WHEREAS, the ISL was subsequently purchased by **Sunwest Bank of Albuquerque, N.A.**, through a Foreclosure Sale Deed and Bill of Sale dated September 20, 1988;

WHEREAS, the ISL was then amended by the Agreement executed and effective September 25, 1991, which deleted approximately 1.4014 acres from Lot 7 of the leased premises;

WHEREAS, the ISL was subsequently assigned to **1800 Lee Trevino, L.P.**, pursuant to a Lessor's Approval of Assignment with an Effective Date of December 19, 1995;

WHEREAS, the ISL was then amended again, through an Amendment to Lease, to revise and replat the leased premises dated April 9, 1996;

WHEREAS, the ISL was subsequently assigned to **Boeing/Skypark II, Ltd.**, pursuant to a Lessor's Approval of Assignment of Industrial Site Lease, effective September 1, 1997;

WHEREAS, the ISL was then amended and assigned to the **El Paso Coalition for the Homeless** by that Amendment to Industrial Site Lease and Lessor's Approval of Assignment effective December 1, 1998;

WHEREAS, the ISL was amended again by that Fourth Amendment to Lease effective August 1, 1999 to delete approximately 62,461 square feet of land;

WHEREAS, the ISL was then assigned to **James E. Branson** pursuant to a Lessor's Approval of Assignment, effective October 1, 2000;

WHEREAS, the ISL was subsequently assigned to **Thomas P. Bray and Linda M. Micu**, pursuant to a Lessor's Approval of Assignment, effective August 1, 2002; and

WHEREAS, a request has been received by Lessor to assign the ISL to Haysland, Inc. d/b/a GoldCross Properties of El Paso;

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. **THE PREMISES.** The initial ISL and all subsequent modifications and assignments (collectively referred to herein as the "Lease") cover the following described leased premises:

A portion of Lot 7 and 8, Block 5, El Paso International Airport Tracts, Replat "A", 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 6500 Boeing Dr., El Paso, Texas ("Premises").

2. **CONSENT TO ASSIGNMENT.** Lessor hereby approves and consents to the assignment of the Lease from Assignor to Haysland Inc., d/b/a GoldCross Properties of El Paso, ("Assignee"), on the condition that Assignee assumes and becomes liable to pay any and all sums owing or becoming due Lessor under 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. Further, this consent to assignment is expressly contingent upon the full satisfaction of all past rents and other fees due Lessor by Assignor at the time of assignment from Assignor to Assignee, as contemplated herein. Lessor has provided documentation to the parties of all outstanding debts referenced herein. Failure to satisfy all such outstanding obligations shall render this consent as void.
3. **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.
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. Provided, however, that Gary Crossland ("Guarantor") individually guarantees payment of rent and other charges or fees due to the Lessor and shall become fully liable for the prompt and complete performance of any and all obligations arising, or to arise, under the Lease.

5. **RATIFICATION OF AGREEMENT.** 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 Assignor and Assignee shall be sufficient if sent by certified mail, postage prepaid, addressed to:

ASSIGNOR: Thomas P. Bray
Linda M. Micu
PO Box 514
Lincoln, MA 01773-0514

ASSIGNEE: Haysland Inc.
d/b/a GoldCross Properties of El Paso
500 W. Paisano Dr.
El Paso, TX 79901

GUARANTOR: Gary Crossland
500 W. Paisano Dr.
El Paso, TX 79901

7. **AUTHORIZED REPRESENTATIVE.** The persons signing this Lessor's Approval of Assignment on behalf of the Assignor, Assignee, or Guarantor represent and warrant that they have the authority legally to bind their respective party, 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 effective date of this Lessor's Approval of Assignment shall be the date this instrument is authorized by resolution of the City Council of the City of El Paso.

(SIGNATURES BEGIN ON THE FOLLOWING PAGE)

LESSOR: CITY OF EL PASO

Joyce A. Wilson
City Manager

APPROVED AS TO FORM:

Raymond L. Telles
Raymond L. Telles
Assistant City Attorney

APPROVED AS TO CONTENT:

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

ATTEST:

Printed Name: _____

ASSIGNOR: Thomas P. Bray

Thomas P. Bray
Printed Name: Thomas P. Bray
Title: _____

ATTEST:

Printed Name: _____

ASSIGNOR: Linda M. Micu

Linda M. Micu
Printed Name: _____
Title: _____

ATTEST:

Printed Name: _____

ASSIGNEE: Haysland Inc. d/b/a
GoldCross Properties of El Paso

Gary Crossland
Printed Name: Gary Crossland
Title: Owner/Manager

ATTEST:

Printed Name: _____

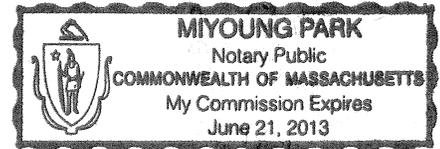
GUARANTOR: Gary Crossland

Gary Crossland
Printed Name: Gary Crossland

(ACKNOWLEDGEMENTS BEGIN ON THE FOLLOWING PAGE)

ASSIGNOR'S ACKNOWLEDGEMENT

THE STATE OF MA)
)
COUNTY OF Middlesex)



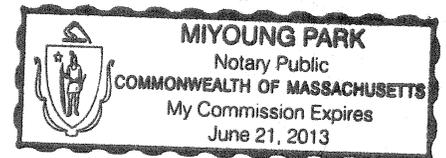
This instrument was acknowledged before me on this 19 day of October, 2006, by **Thomas P. Bray** (Assignor).

W. J. Park
Notary Public, State of MA

My Commission Expires:
6/21/2013

ASSIGNOR'S ACKNOWLEDGEMENT

THE STATE OF MA)
)
COUNTY OF Middlesex)



This instrument was acknowledged before me on this 19 day of October, 2006, by **Linda M. Micu** (Assignor).

W. J. Park
Notary Public, State of MA

My Commission Expires:
6/21/2013

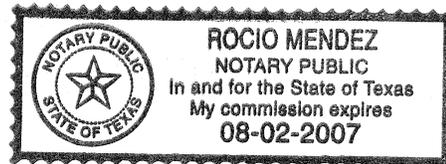
ASSIGNEE'S ACKNOWLEDGEMENT

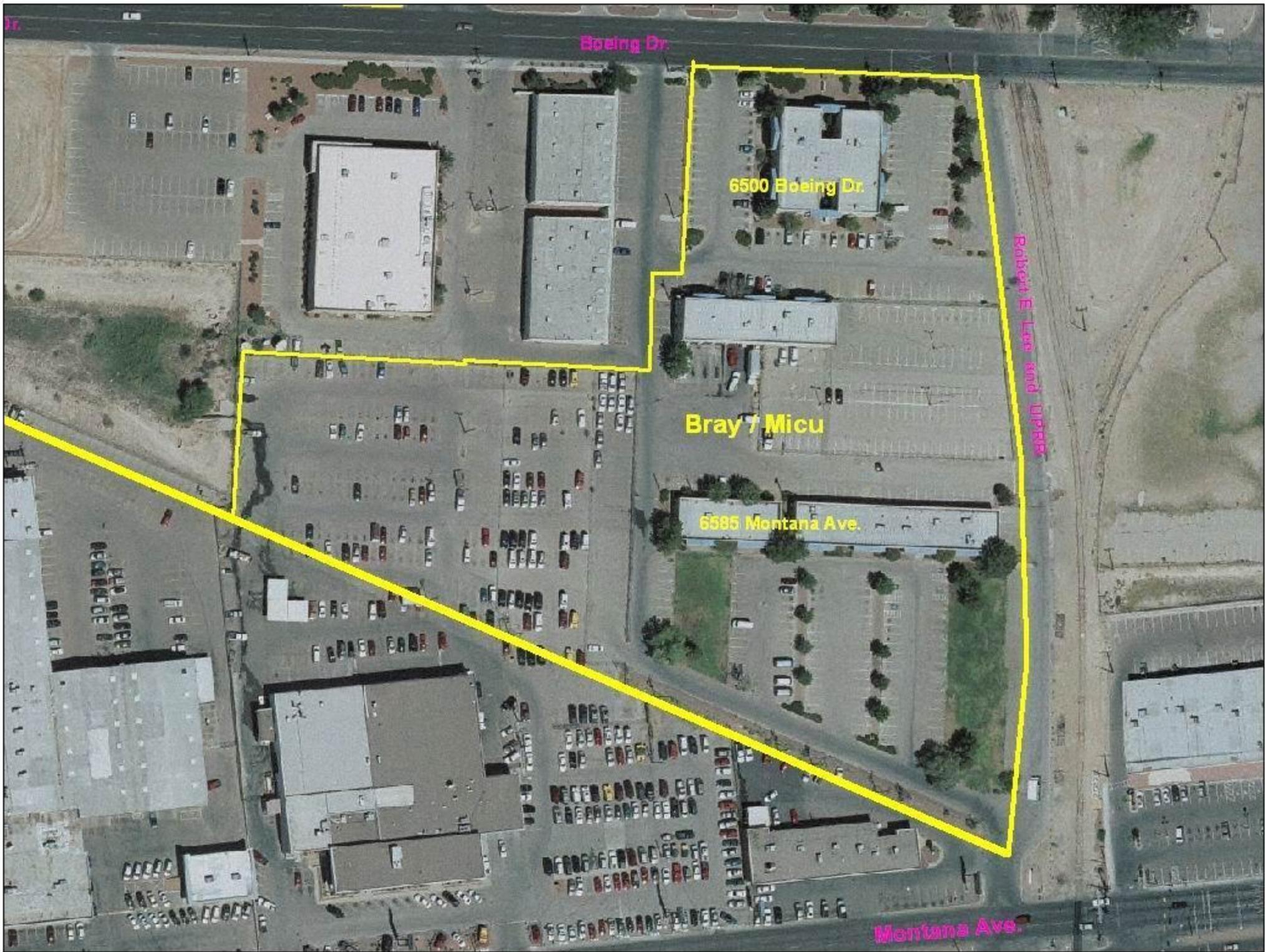
THE STATE OF Texas)
)
COUNTY OF El Paso)

This instrument was acknowledged before me on this 20 day of October, 2006, by **Gary Crossland**, as **owner/manager** of **Haysland, Inc., d/b/a Goldcross Properties of El Paso** (Assignee).

Rocio Menendez
Notary Public, State of Texas

My Commission Expires:
8/2/07





Boeing Dr.

6500 Boeing Dr.

Bray / Micu

6585 Montana Ave.

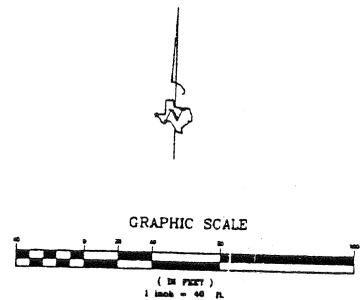
Robert E. Lee and 69th St.

Montana Ave.

HILLER STREET

BOEING DRIVE

T. & N.O. R.R. RIGHT-OF-WAY



PROPERTY DESCRIPTION

BEING A PORTION OF LOTS 7 AND 8, BLOCK 5, EL PASO INTERNATIONAL AIRPORT TRACTS - REPLAT "A", IN THE CITY OF EL PASO, EL PASO COUNTY, TEXAS AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A 5/8" REBAR FOUND AT THE INTERSECTION OF THE COMMON CORNER OF LOTS 6 AND 7, EL PASO INTERNATIONAL AIRPORT TRACTS - REPLAT "A", AND THE SOUTH RIGHT-OF-WAY OF BOEING DRIVE; THENCE WITH SAID RIGHT-OF-WAY NORTH 88°58'07" EAST A DISTANCE OF 433.33' TO A CHISELED "X" FOUND AT THE POINT OF BEGINNING;

THENCE WITH SAID RIGHT-OF-WAY NORTH 88°58'07" EAST A DISTANCE OF 303.46 FEET TO A 5/8" REBAR FOUND AT THE WEST RIGHT-OF-WAY OF THE FORT BLISS SPUR TRACK (T. & N.O. RAILROAD) AND BEING ON A CURVE TO THE RIGHT;

THENCE LEAVING SAID SOUTH RIGHT-OF-WAY AND WITH SAID WEST RIGHT-OF-WAY AND WITH A CURVE TO THE RIGHT, 806.25 FEET WITH THE ARC OF SAID CURVE, HAVING A RADIUS OF 2833.36 FEET, AN INTERIOR ANGLE OF 127°15'34", AND A CHORD BEARING SOUTH 08°15'10" EAST A DISTANCE OF 605.09 FEET TO A PK. NAIL FOUND;

THENCE CONTINUING WITH SAID RIGHT-OF-WAY, SOUTH 02°07'23" EAST A DISTANCE OF 167.82 FEET TO A 5/8" REBAR SET;

THENCE LEAVING SAID RIGHT-OF-WAY, NORTH 69°58'18" WEST A DISTANCE OF 874.46 FEET TO A 5/8" REBAR FOUND;

THENCE NORTH 01°01'53" WEST A DISTANCE OF 163.86 FEET TO A 5/8" REBAR FOUND;

THENCE NORTH 88°58'07" EAST A DISTANCE OF 409.33 FEET TO A PK. NAIL SET;

THENCE NORTH 01°01'53" WEST A DISTANCE OF 90.00 FEET TO A PK. NAIL SET;

THENCE NORTH 88°58'07" EAST A DISTANCE OF 24.00 FEET TO A PK. NAIL SET;

THENCE NORTH 01°01'53" WEST A DISTANCE OF 200.00 FEET TO THE POINT OF BEGINNING CONTAINING 8.186 ACRES OR 356,594 SQUARE FEET.

LINE	LENGTH	BEARING
LI	24.00	N88°58'07"E

CURVE	LENGTH	RADIUS	TAN	DELTA	CHORD	CHORD BEING
C1	806.25	2833.36	304.28	127°15'34"	605.09	S08°15'10"E

AREA: 8.186 ACRES OR 356,594 SQ. FT.

6500 BOEING DRIVE
6585 MONTANA AVENUE

I CERTIFY THIS SURVEY WAS PERFORMED BY THE ENGINEER BY ME OR UNDER MY SUPERVISION AND THAT I AM A LICENSED PROFESSIONAL LAND SURVEYOR IN THE STATE OF TEXAS.

DATE: APR. 8, 1999

SCALE: 1" = 60'

NOT VALID UNLESS IMPRESSION SEALED

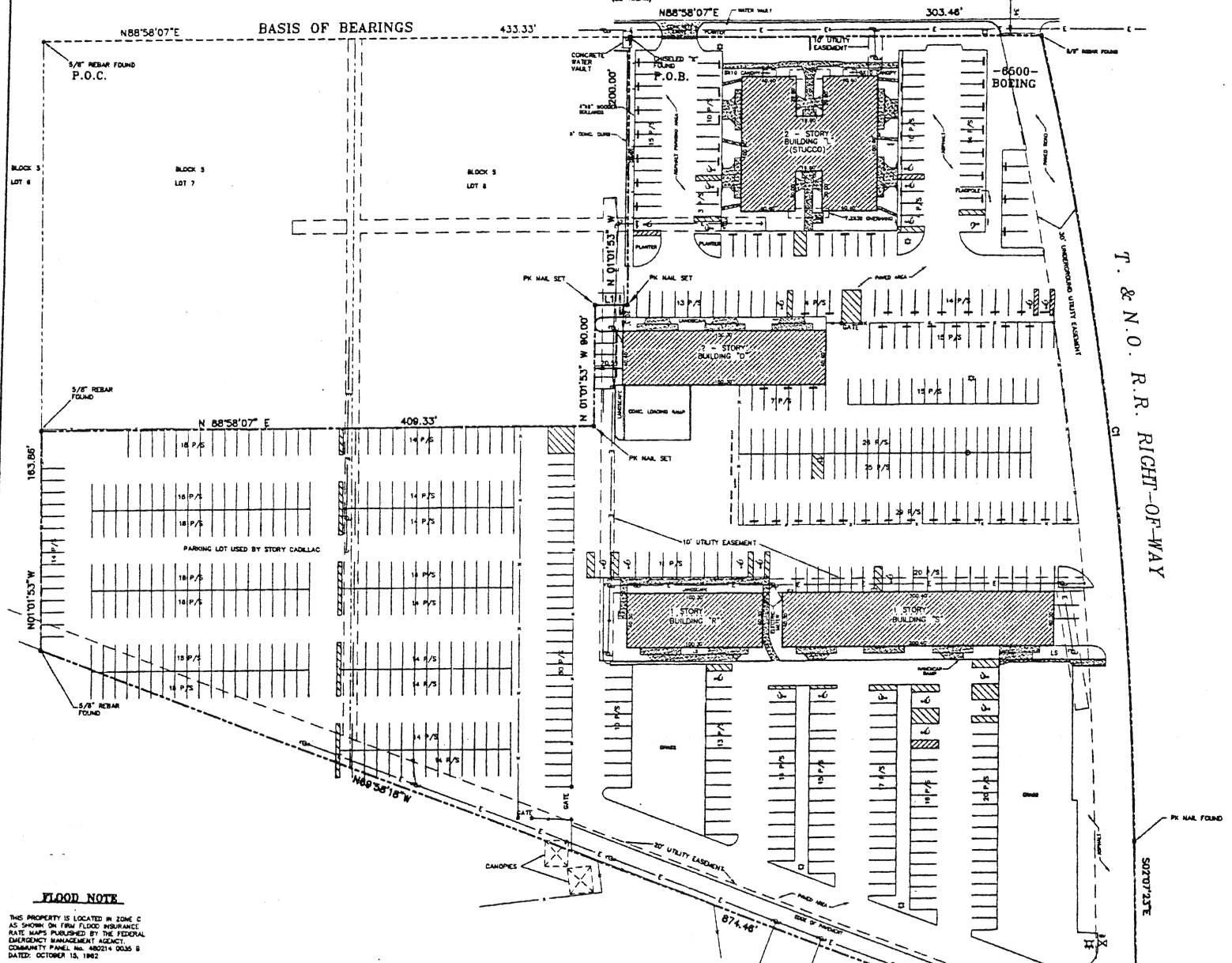
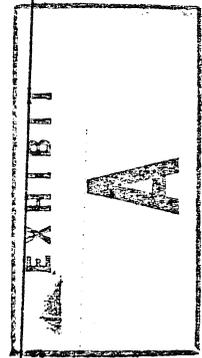
SON O. CHRISTIAN
REGISTERED PROFESSIONAL LAND SURVEYOR
EXPIRES: 03/31/00

NO.	DATE	REVISIONS

BOUNDARY & IMPROVEMENT SURVEY
PORTIONS OF LOTS 7, AND 8, BLOCK 5
EL PASO INTERNATIONAL AIRPORT TRACTS
REPLAT "A"

CITY OF EL PASO EL PASO COUNTY

KISTENMACHER ENGINEERING COMPANY
1000 W. UNIVERSITY BLVD., SUITE 100, EL PASO, TEXAS 79902



FLOOD NOTE

THIS PROPERTY IS LOCATED IN ZONE C AS SHOWN ON FIRM FLOOD INSURANCE RATE MAPS PUBLISHED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY, COMMUNITY PANEL NO. 480214 0035 B DATED: OCTOBER 15, 1982

NOTE

1. ALL INFORMATION SHOWN HEREIN WITH RESPECT TO UNDERGROUND CONDITIONS WAS DETERMINED BY DATA COLLECTED THROUGH SURVEY CREW OBSERVATION AND OTHER INFORMATION TAKEN FROM EXISTING PLANS AND MAPS OF RECORD. NO UNDERGROUND UTILITIES EXISTING OR ABANDONED WERE EXPOSED OR LOCATED. UNLESS SPECIFICALLY ACCEPTED BY KISTENMACHER ENGINEERING COMPANY, INC. IN WRITING, KISTENMACHER ENGINEERING COMPANY, INC. MAKES NO CLAIM, EXPRESSED OR IMPLIED, AS TO THE UNDERGROUND SITE CONDITIONS.
2. ALL EASEMENTS SHOWN ARE REFERENCED TO VOL. 71, PAGE 24 EL PASO COUNTY PLAT RECORDS
3. THIS SURVEY WAS CONDUCTED WITHOUT THE BENEFIT OF A TITLE REPORT

LEGEND

- | | | | |
|------|-------------------------|----|--------------------|
| LS | LANDSCAPING | CE | AREA LIGHT |
| UP | UTILITY POLE | CM | GAS METER |
| GW | GUY WIRE | CO | CONCRETE |
| WV | WATER VALVE | CL | CONCRETE LINE |
| SN | SON | EL | 0/4" ELECTRIC LINE |
| SSCO | SANITARY SEWER CLEANOUT | FD | FENCE |