

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

**DEPARTMENT:** Airport

**AGENDA DATE:** December 13, 2011

**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 for a Butterfield Trail Industrial Park Lease by and between the City of El Paso ("Lessor"), C&R Distributing, Inc. ("Assignor") and JTC Stores, LLC ("Assignee") for the property located at #13 Concord Street, El Paso, Texas.

**BACKGROUND / DISCUSSION:**

C&R has been a Butterfield Trail tenant since May 1992 when the existing Lease was assigned to them. The site is used as a self dispensing fuel facility. The initial term of the lease was for forty years terminating in November 2024 (with a one – ten year Option.) The annual rent from the leasehold is \$6,464.40 on approximately 44,892 square feet of land.

All terms and conditions of said Leases are to remain the same.

C&R Distributing now desires to assign the current Lease to JTC Stores, LLC, a Texas limited liability company, who owns one hundred percent (100%) of the membership interests in Assignor.

**PRIOR COUNCIL ACTION:**

N/A

**AMOUNT AND SOURCE OF FUNDING:**

N/A. 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 of the Butterfield Trail Industrial Park Lease by and between the City of El Paso ("Lessor"), C & R Distributing, Inc. ("Assignor") and JTC Stores, LLC ("Assignee") for the following described property:

A portion of Lot 5, Block 6, Butterfield Trail Industrial Park Unit One, Replat "A", City of El Paso, El Paso County, Texas, and municipally known and numbered as 13 Concord Street, El Paso, Texas.

ADOPTED this the \_\_\_\_ day of December 2011.

### THE CITY OF EL PASO

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

#### ATTEST:

\_\_\_\_\_  
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

**LESSOR'S APPROVAL OF ASSIGNMENT**

This Lessor's Approval of Assignment is executed this 13<sup>th</sup> day of December, 2011.

**WHEREAS**, the City of El Paso ("Lessor") and Kasco Venture Butterfield 9 entered into a Butterfield Trail Industrial Park Lease, effective November 1, 1984, (together with the amendments identified below, the "Lease") for the property described as a portion of Lot 5, Block 6, Butterfield Trail Industrial Park Unit One, Replat "A", City of El Paso, El Paso County, Texas, which is more precisely set forth on Exhibit "A", attached hereto and made a part hereof. ("Property");

**WHEREAS**, on Dec.1, 19985, Lessor approved a First Amendment to the Lease;

**WHEREAS**, on May 5, 1992, Lessor approved the assignment of the Lease to C&R Distributing, Inc. a Texas corporation, now known as C&R Distributing, LLC a Texas limited liability company ("Assignor");

**WHEREAS**, on July 21, 1992, Lessor approved a Second Amendment to the Lease;

**WHEREAS**, JTC Stores, LLC, a Texas limited liability company, owns one hundred percent (100%) of the membership interests in Assignor; and

**WHEREAS**, Assignor desires to execute an Assignment and Assumption of Lease with JTC Stores, LLC, wherein Assignor will agree to assign to JTC Stores, LLC and JTC Stores, LLC will agree to assume Assignor's obligations under the Lease.

**NOW, THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged,

1. **CONSENT TO ASSIGNMENT.** Lessor hereby approves and consents to the assignment of the Lease from Assignor to JTC Stores, LLC ("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.
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.** 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.
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 shall be sufficient if sent by certified mail, postage prepaid, addressed to:

**ASSIGNEE:** JTC Stores, LLC  
6080 Surety Drive, Suite 305  
El Paso, Texas 79905  
Attn: James A. Cardwell, Jr.

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 authority legally to bind the Assignee or Assignor, respectively, to the provisions of this Lessor's Approval of Assignment.
7. **NON-WAIVER.** This 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 December 2011.

[SIGNATURES BEGIN ON THE FOLLOWING PAGE]

ADOPTED this \_\_\_\_ day of December 2011

LESSOR: CITY OF EL PASO

\_\_\_\_\_  
Joyce A. Wilson  
City Manager

APPROVED AS TO FORM:

\_\_\_\_\_  
Theresa Cullen  
Deputy City Attorney

APPROVED AS TO CONTENT:

*for*   
\_\_\_\_\_  
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 December 2011, by  
**Joyce A. Wilson** as **City Manager** of the **City of El Paso, Texas**. (Lessor)

My Commission Expires:  
\_\_\_\_\_

\_\_\_\_\_  
Notary Public, State of Texas

[SIGNATURES CONTINUE ON THE FOLLOWING PAGE]

ASSIGNOR:  
C & R DISTRIBUTING, ~~INC.~~ LLC

*James A. Cardwell, Jr.*

Printed Name: James A. Cardwell, Jr.

Title: Manager

ASSIGNOR'S ACKNOWLEDGEMENT

THE STATE OF TEXAS        )  
  )  
COUNTY OF EL PASO        )

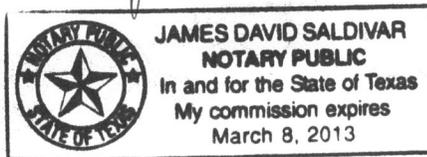
This instrument was acknowledged before me on this 6 day of December 2011, by James A. Cardwell, Jr. as Manager of C & R Distributing, ~~Inc.~~ LLC (Assignor).

*James D. Saldivar*

Notary Public, State of Texas

My Commission Expires:

\_\_\_\_\_



[SIGNATURES CONTINUE ON THE FOLLOWING PAGE]

ASSIGNEE: JTC STORES, LLC

*James A. Cardwell, Jr.*  
Printed Name: James A. Cardwell, Jr.  
Title: Manager

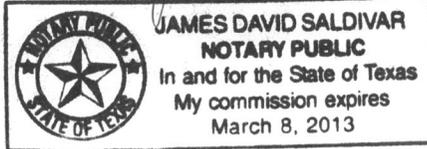
ASSIGNEE'S ACKNOWLEDGEMENT

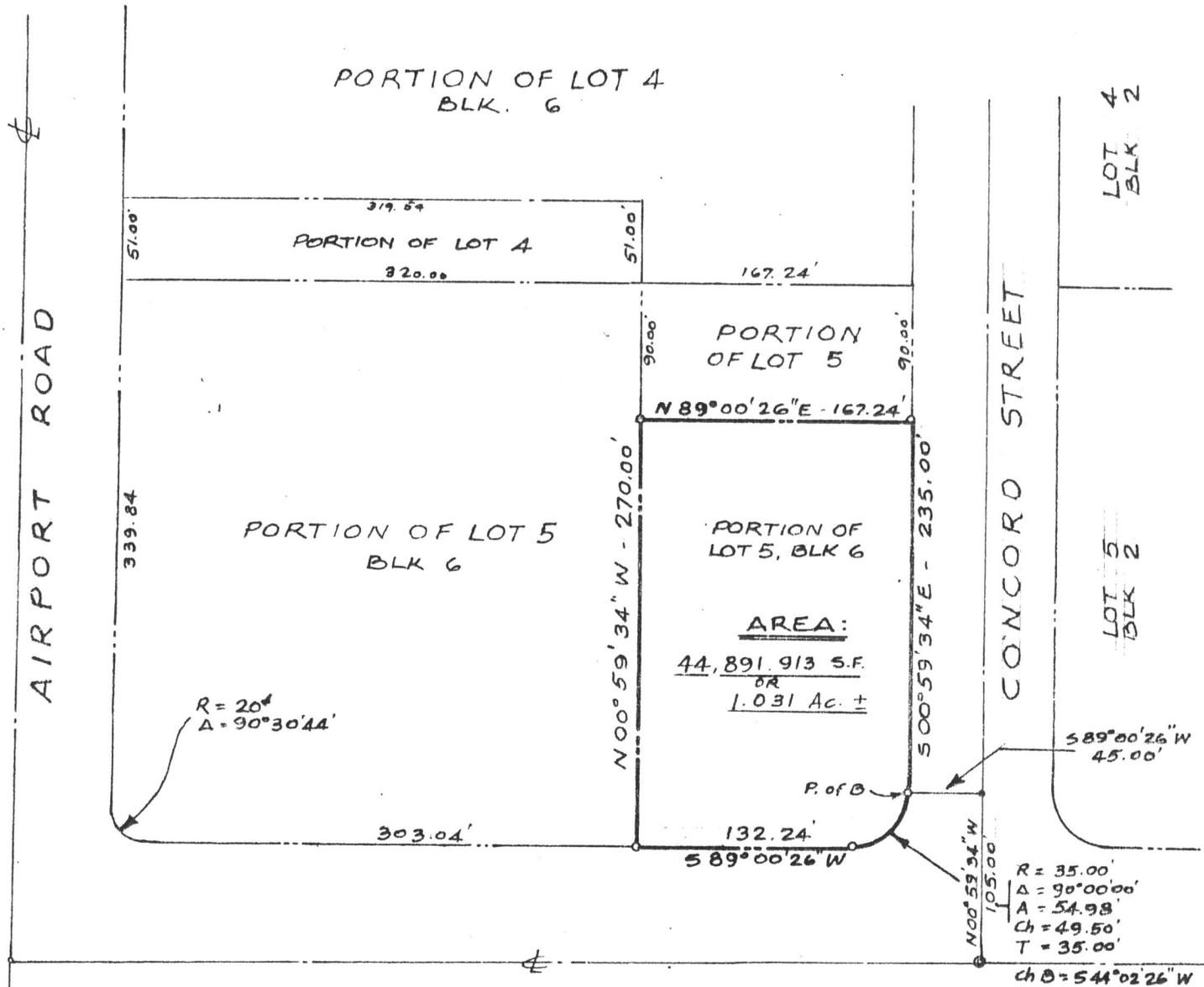
THE STATE OF TEXAS        )  
  )  
COUNTY OF EL PASO        )

This instrument was acknowledged before me on this 6 day of December 2011, by James A. Cardwell, Jr. as Manager of JTC Stores, LLC. (Assignee)

*James D. Saldivar*  
Notary Public, State of Texas

My Commission Expires:  
\_\_\_\_\_





PORTION OF LOT 5  
BLK 6

AREA:  
44,891.913 S.F.  
OR  
1.031 Ac. ±

R = 20'  
Δ = 90°30'44'

R = 35.00'  
Δ = 90°00'00"  
A = 54.98'  
Ch = 49.50'  
T = 35.00'

Ch B = 544'02'26" W

BUTTERFIELD TRAIL BLVD.

EXHIBIT  
A



NOT A SURVEY

PLAT		
BEING A PORTION OF LOT 5, BLOCK 6, BUTTERFIELD TRAIL INDUSTRIAL PARK UNIT ONE, REPLAT "A" City of El Paso, El Paso County, Texas		
DRAWN: V.M.R.	APP'VD: R.E.L.	CREMANS, INC. ENGINEERS - PLANNERS EL PASO, TEX
CHK'D: R.E.L.	FILE No.	
SCALE: 1" = 100'	DATE: JUNE 28, 84	



PREPARED FOR: Kasco Ventures, Inc.  
Being a portion of Lot 5, Block 6,  
Butterfield Trail Industrial Park Unit One,  
Replat "A", City of El Paso, El Paso County,  
Texas

PROPERTY DESCRIPTION

Description of a parcel of land being a portion of Lot 5, Block 6, Butterfield Trail Industrial Park Unit One, Replat "A", City of El Paso, 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 Butterfield Trail Boulevard with the centerline of Concord Street; thence North  $00^{\circ} 59' 34''$  West along the centerline of Concord Street a distance of 105.00 feet; thence South  $89^{\circ} 00' 26''$  West a distance of 45.00 feet to a point lying on the westerly right-of-way line of Concord Street and said point being the POINT OF BEGINNING;

Thence 54.98 feet along the arc of a curve to the right whose interior angle is  $90^{\circ} 00' 00''$ , whose radius is 35.00 feet and whose chord bears South  $44^{\circ} 00' 26''$  West a distance of 49.50 feet to a point lying on the northerly right-of-way line of Butterfield Trail Boulevard;

Thence South  $89^{\circ} 00' 26''$  West along the northerly right-of-way line of Butterfield Trail Boulevard a distance of 132.24 feet;

Thence North  $00^{\circ} 59' 34''$  West a distance of 270.00 feet;

Thence North  $89^{\circ} 00' 26''$  East a distance of 167.24 feet to a point lying on the westerly right-of-way line of Concord Street;

Thence South  $00^{\circ} 59' 34''$  East along said westerly right-of-way line a distance of 235.00 feet to the POINT OF BEGINNING and containing in all 44,891.913 square feet or 1.031 acres of land, more or less.

A handwritten signature in cursive script, appearing to read "Ramon E. Lara".

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

June 28, 1984