

# City of Las Cruces<sup>®</sup>

PEOPLE HELPING PEOPLE

## Council Action and Executive Summary

Item # 9

Ordinance/Resolution# 12-120

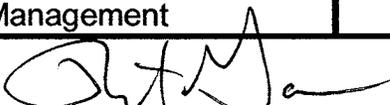
For Meeting of \_\_\_\_\_  
(Ordinance First Reading Date)

For Meeting of January 17, 2011  
(Adoption Date)

**TITLE:** A RESOLUTION APPROVING A TWO YEAR LEASE AGREEMENT BETWEEN KENT-LAND LTD, RLLLP AND THE CITY OF LAS CRUCES FOR USE OF SPACE LOCATED AT 8861 TRIGG LOOP FOR A TEMPORARY FIRE STATION IN THE WEST MESA AREA.

**PURPOSE(S) OF ACTION:**

To approve a two (2) year lease agreement.

<b>COUNCIL DISTRICT:</b> All		
<b><u>Drafter/Staff Contact:</u></b> Catherine Duarte		<b><u>Department/Section:</u></b> Public Works/Facilities Management
		<b><u>Phone:</u></b> (575) 528-3121
<b><u>City Manager Signature:</u></b>		

**BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:**

Facilities staff were informed by the Las Cruces Fire Department (Fire Department) that they were interested in leasing a 4,500 square foot building from Kent-Land Ltd., RLLLP which is located at 8861 Trigg Loop, (west mesa area) to be utilized as a temporary fire station in order to provide a quicker response time for emergencies in that area of our City. 1,500 square feet of the building has office space and living quarters which will house and accommodate at least four firefighters. The warehouse portion of this building is 3,000 square feet and will accommodate the fire truck and equipment.

The Fire Department is planning to relocate to their new site upon completion of the construction of their permanent fire station. The anticipated move in date for the relocation of the fire station is on or before December 31, 2013.

The lease is for two (2) years with two (2) six (6) month renewal options. Annual rent for the first year is \$28,125.00; the second year is \$29,250.00, to be paid monthly. The City shall also change the required filters for the heating and cooling systems ever sixty (60) day in order to help maintain the systems in good working order but shall not be obligated to spend more than \$500.00 per lease year for such filter replacement. Should the construction of the permanent fire station be completed prior to the end of the lease the City has the option to terminate the lease at any time within year two (2) of the lease term by providing the landlord with ninety (90) days prior written notice of termination.

**SUPPORT INFORMATION:**

1. Resolution.
2. Exhibit "A", Lease Agreement.
3. Attachment "A", Floor Plan to Building.

**SOURCE OF FUNDING:**

<b>Is this action already budgeted?</b>	Yes	<input checked="" type="checkbox"/>	See fund summary below
	No	<input type="checkbox"/>	If No, then check one below:
	<i>Budget Adjustment Attached</i>	<input type="checkbox"/>	Expense reallocated from: _____
	<input type="checkbox"/>	Proposed funding is from a new revenue source (i.e. grant; see details below)	
	<input type="checkbox"/>	Proposed funding is from fund balance in the _____ Fund.	
<b>Does this action create any revenue?</b>	Yes	<input type="checkbox"/>	Funds will be deposited into this fund: _____ ) in the amount of \$ _____ for FY _____
	No	<input checked="" type="checkbox"/>	There is no new revenue generated by this action.

**BUDGET NARRATIVE**

N/A.

**FUND EXPENDITURE SUMMARY:**

Fund Name(s)	Account Number(s)	Expenditure Proposed	Available Budgeted Funds in Current FY	Remaining Funds	Purpose for Remaining Funds
General Fund	10167020-723100	\$14,625.00 (6 month lease)	\$14,625.00	\$0	N/A

**OPTIONS / ALTERNATIVES:**

1. Vote "Yes"; this will approve the Resolution authorizing the Lease Agreement for the use of 4,500 square feet building for a temporary fire station and authorizing the Mayor to execute the lease agreement for a term of two (2) years with a mutual right of termination for either upon a ninety (90) day written notice.
2. Vote "No"; this will not approve the Resolution, and will not authorize the Lease Agreement.
3. Vote to "Amend"; this would require re-negotiation of the lease terms and could result in commensurate adjustments to the costs associated with the lease.

4. Vote to "Table"; this would result in delay that might cause unfavorable changes to the terms of the lease.

**REFERENCE INFORMATION:**

The resolution(s) and/or ordinance(s) listed below are only for reference and are not included as attachments or exhibits.

N/A

RESOLUTION NO. 12-120

**A RESOLUTION APPROVING A TWO YEAR LEASE AGREEMENT BETWEEN KENT-LAND LTD. RLLLP AND THE CITY OF LAS CRUCES FOR USE OF SPACE LOCATED AT 8861 TRIGG LOOP FOR A TEMPORARY FIRE STATION IN THE WEST MESA AREA.**

The City Council of the City of Las Cruces is informed that:

**WHEREAS**, the Fire Department is interested in leasing a 4,500 square foot building as a temporary fire station located at 886 Trigg Loop, in the west mesa area; and

**WHEREAS**, the Fire Department is planning to relocated to their new site upon completion of the construction of their permanent fire station. The anticipated move in date for the relocation of the fire station is on or before December 31, 2013; and

**WHEREAS**, the City will be responsible for a two (2) year lease with two (2) six (6) month option to renew the term; and

**WHEREAS**, the City has the option to terminate the Lease Agreement at any time beginning year two (2) of the lease term by providing the landlord with ninety (90) days prior written notice of termination.

**NOW, THEREFORE**, Be it resolved by the governing body of the City of Las Cruces:

**(I)**

**THAT** approval is hereby recommended for the Lease Agreement under the terms and conditions for two years between the City and Kent-Land Ltd, RLLLP.

**(II)**

**THAT** the City and Kent-Land Ltd, RLLLP have two (2)six(6) month options to renew the lease agreement , and the conditions that the City will be responsible for.

(III)

THAT the Mayor is hereby authorized to execute the Lease Agreement, designated as Exhibit "A", attached hereto and made a part hereof, for a term of two (2) years with a mutual right of termination for either party to terminate the lease upon a ninety (90) day written notice.

(IV)

THAT City staff is hereby authorized to do all deeds necessary in the accomplishment of the herein above.

DONE and APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

ATTEST

APPROVED:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

(SEAL)

Moved by: \_\_\_\_\_

Seconded by: \_\_\_\_\_

VOTE:

Mayor Miyagishima: \_\_\_\_\_

Councillor Silva: \_\_\_\_\_

Councillor Smith: \_\_\_\_\_

Councillor Pedroza: \_\_\_\_\_

Councillor Small: \_\_\_\_\_

Councillor Sorg: \_\_\_\_\_

Councillor Thomas: \_\_\_\_\_

APPROVED AS TO FORM:

*[Handwritten Signature]*  
\_\_\_\_\_  
City Attorney

LEASE AGREEMENT BETWEEN  
KENT-LAND LTD RLLLP  
AND THE CITY OF LAS CRUCES

This Lease Agreement ("Lease"), is entered into on this \_\_\_\_ day of \_\_\_\_\_, 2011 between KENT-LAND LTD, RLLLP, a Colorado registered limited liability partnership whose address is 4400 S. Clay Street, Englewood, CO 80110, ("Landlord") and CITY OF LAS CRUCES, a New Mexico municipal corporation, whose address is P.O. Box 20000, Las Cruces, NM 88004("City") as follows:

**PREMISES**

Landlord for valuable consideration, leases to the City the premises shown on Exhibit "A" attached hereto and incorporated herein by reference, which premises are located at 8861 Trigg Loop, Las Cruces, New Mexico ("Premises"). The Premises include the 4500 square foot building and improved parking lot.

**LEASE TERM**

The term of the Lease shall be for two (2) years beginning on the 1<sup>st</sup> day of January, 2012 and running through and including the 31<sup>st</sup> day of December, 2013. This Lease shall be binding on the assigns and successors in interest of the parties.

**USE OF PROPERTY**

The City will use the Premises as the City's Fire Station for the West Mesa area. The City shall not use, occupy or permit the use of the Premises for any purpose which i) is not authorized by this Lease, or ii) is directly forbidden by law, ordinance or governmental or municipal regulation, rule or order, or iii) permit anything to be done which would materially increase the fire and extended coverage insurance rate on the building or contents.

**PAYMENT OF RENT**

The City shall pay to Rio Grande Rentals, LLC c/o Oxford Recycling, Inc., 2400 West Oxford Avenue, Englewood, CO 80110, its successors and assignees as the Landlord may designate in writing to the City, the rent scheduled as follows: \$6.25 per square foot on a 4500 square foot leased area for year one (1), which is \$28,125.00 annually to be paid at \$2,343.75 per month and \$6.50 per square foot on a 4500 square foot leased area for year two (2) which is \$29,250.00 annually to be paid at \$2,437.50 per month. Rent is payable monthly with the first month due within 21 days of City Council approval of the Lease, and on or before the first day of each month thereafter.

**OPTION TO RENEW**

The City may extend or renew the Lease for two (2) additional six (6) month periods prior to the expiration of the Lease term, under the same terms and conditions of existing Lease. Any renewal shall be in writing signed by both parties.

**TERMINATION**

The City shall have the option to terminate the Lease at any time beginning in year two (2) of the Lease term by providing the Landlord with ninety (90) days prior written notice of termination.

**CONDITION OF LEASED PREMISES**

The Landlord, at its expense shall, prior to the City's occupancy of the Premises, ensure that all major components (heating, cooling, electrical and plumbing) are in good working order and the building is clean and environmentally sound and in compliance with environmental laws. The City will give the Landlord notice of any items that need repair/replacement and Landlord has Five (5) days to correct noted items and/or opt out of the Lease, or re-negotiate the Lease. Example of items in this paragraph include, but are not limited to repainting any walls where cleaning does not suffice, replacing stained ceiling tiles and insuring all lighting fixtures are operational. The City shall be deemed to have unconditionally accepted the Premises by taking occupancy.

#### **MINOR MAINTENANCE**

The City shall maintain the interior of the building such as interior flooring, walls, ceiling, vent and duct cleaning, paint, light fixtures, windows, doors, clogged drains and lavatories. The City shall maintain the Premises in good condition, and at the end or other expiration of the term of this Lease, shall deliver up the Premises in good order and condition, normal wear and tear excepted. Any damage to the Premises shall be repaired by the City at its expense except as provided below.

The City shall also change the required filters for the heating and cooling systems every sixty (60) days in order to help maintain the systems in good working order, but shall not be obligated to spend more than \$500 per lease year for such filter replacement.

#### **MAJOR MAINTENANCE AND REPAIRS**

Landlord will keep the foundation, sub floor, exterior walls, roof and under the slab utilities of the building and the parking lot in good condition and repair, unless such repairs are made necessary by negligence or intentional acts of the City. Landlord will also be responsible for all major repairs or replacements to the heating, electrical, plumbing systems and air conditioning equipment, for the building, unless such repairs are made necessary by negligence or intentional acts of the City. Landlord will also be responsible for keeping the Premises ADA accessible.

#### **ALTERATIONS**

The City shall not cause any major alterations, improvements, or additions to the Premises to be made unless it obtains prior written approval of the Landlord. All such alterations or improvements permanently affixed shall become a part of the Premises and the lawful property of the Landlord.

#### **UTILITIES**

The City shall be responsible to secure all necessary utility services for the Premises in its name and shall promptly pay all bills for such utility services. The City shall provide custodial service and landscaping services as necessary.

#### **LIABILITY**

The City is self insured for all tort risks for which immunity has been waived under the New Mexico Tort Claims Act. The City's self insurance fund is maintained by the City at a level deemed to be adequate for the reasonable foreseeable future for tort liabilities of the City.

Neither party shall be responsible for liability incurred as a result of the other party's acts or omissions in connection with the Lease. Any liability incurred by the City in connection with this Lease is subject to the immunities and limitations of the New Mexico Tort Claims Act. Nothing in this Lease shall be deemed to be a waiver by the City of the provisions of the New Mexico Tort Claims Act.

#### **CASUALTY INSURANCE**

Landlord, during the term hereof, will provide with or without deductibles, insurance coverage against loss or damage by fire, flood, windstorm, hail explosion, damage from aircraft and vehicles, smoke damage, and other risks as are from time to time included in an extended coverage endorsement insuring the Premises and insuring the improvements to the Premises (exclusive of the City's merchandise, trade fixtures, furnishings, equipment, plate glass, signs and all other items of personal property of the City) in an amount equal to the Premises' taxable value.

The City shall maintain any insurance desired by it on the City's own contents, equipment and its right of occupancy of the Premises.

#### **TAXES**

Landlord shall pay all real property taxes that occur during the term of the Lease.

#### **ASSIGNMENT**

The City shall not assign, mortgage, or sublet or sublease the Premises or any part thereof without the express written consent of the Landlord which consent shall not be unreasonably withheld.

**SIGNS**

Any Sign to be placed by the City at any location on the Premises shall comply with all City regulations and ordinances. The City further agrees to maintain any such sign, awning, canopy, decoration, lettering, advertising matter in good condition and repair at all times.

**ENVIRONMENTAL CONCERNS**

The City shall not use the Premises in any manner which creates an environmental hazard or nuisance or violates any federal, state or local law, ordinance, rule or regulation. In addition, the Landlord will pay all costs and expenses of compliance with the federal, state or local environmental law, ordinances, rules or regulations, including the cost of the cleanup or correction of any violation caused directly by the Landlord.

**NOTICE**

Notices sent certified mail, return receipt requested, shall be deemed received ten (10) days after mailing. The parties agree that their addresses for the purposes of receiving notices are set forth in the introductory paragraph or as may be changed from time to time by either party serving notice as above provided.

**INDEMNIFICATION**

The City will indemnify and hold Landlord harmless from any and all claims including reasonable attorney fees and costs of investigation arising out of this Agreement or any amendment hereto in the proportion that the tortious act or omission of the City, its officers or employees or agents has caused such liability. Nothing in the Agreement shall be deemed to be a waiver by the City of the provisions of the New Mexico Tort Claims Act.

Landlord will indemnify and hold the City, its officers and employees harmless from any and all claims including costs and expenses of defending such claim and all other liabilities and expenses of any kind from any source which may arise out of this lease or any amendment thereof, or from the use of the Property, if caused by the tortious act or omission of the Landlord, its agents or employees.

**ENTIRE AGREEMENT**

This Lease reflects the agreement between the parties in its entirety. No amendment or modification shall be permitted unless agreed to by both parties in writing.

Kent-Land Ltd R.L.L.P

BY: \_\_\_\_\_



City of Las Cruces

BY: \_\_\_\_\_

\_\_\_\_\_, Mayor

Approved: \_\_\_\_\_

\_\_\_\_\_, City Attorney

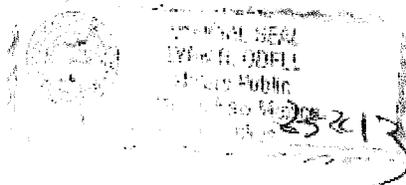
Acknowledgements

State of New Mexico  
County of Dona Ana ) ss.

The foregoing instrument was acknowledged before me on this 15<sup>th</sup> day of DECEMBER, 2011, by FRANCIS KEAT as MANAGING PARTNER, on behalf of Kent-Land Ltd RLLLP, a Colorado Limited Liability Partnership, on behalf of said partnership.

My Commission Expires:  
8-8-2013

[Signature]  
Notary Public



State of New Mexico )  
County of Dona Ana ) ss.

The foregoing instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, 2011 by \_\_\_\_\_ as Mayor of the City of Las Cruces, a New Mexico Municipal Corporation, on behalf of said corporation.

My Commission Expires:

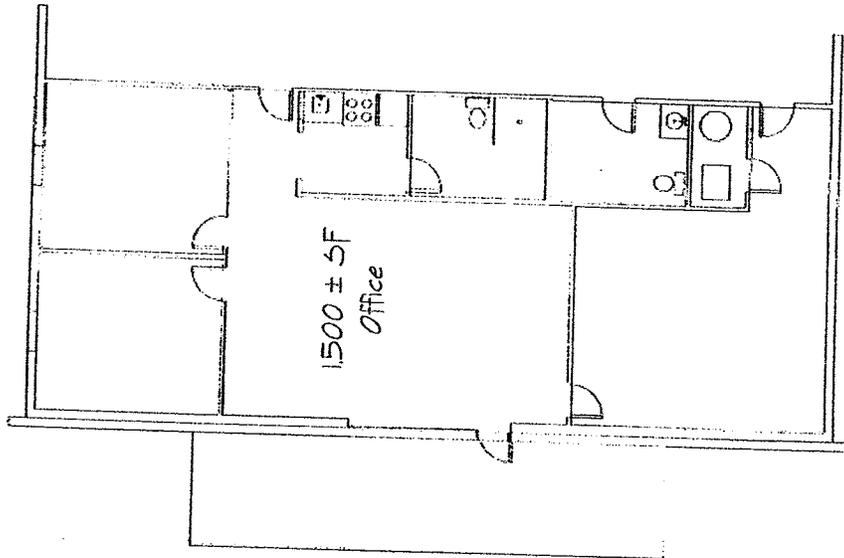
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Notary Public

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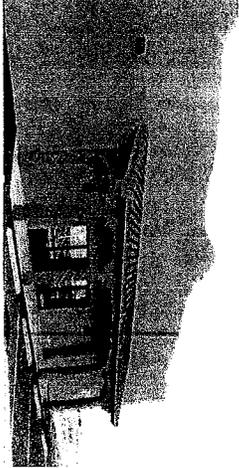
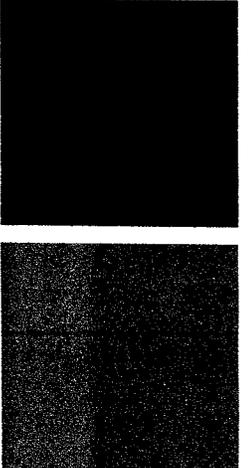
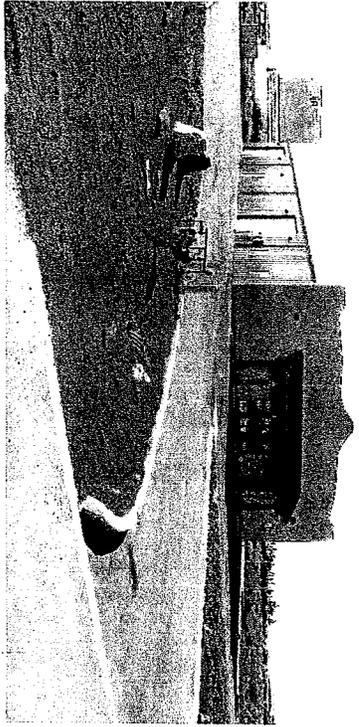
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**8861 TRIGG LOOP**  
Office / Warehouse Space For Lease  
west mesa industrial park  
las cruces new mexico



**1st Valley**  
Commercial Real Estate Services, Worldwide.

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