



City of Las Cruces®

PEOPLE HELPING PEOPLE

Council Action and Executive Summary

Item # 4Ordinance/Resolution# 17-085For Meeting of _____
(Ordinance First Reading Date)For Meeting of November 7, 2016
(Adoption Date)

Please check box that applies to this item:

 QUASI JUDICIAL LEGISLATIVE ADMINISTRATIVE

TITLE: A RESOLUTION AUTHORIZING AN ASSIGNMENT OF LAND LEASE FOR PARCEL 24 AT THE LAS CRUCES INTERNATIONAL AIRPORT FROM MESILLA CAPITAL INVESTMENTS, LLC TO ICARUS AERO, LLC.

PURPOSE(S) OF ACTION:

To authorize an assignment of land lease.

COUNCIL DISTRICT: 4		
<u>Drafter/Staff Contact:</u> Lisa Murphy	<u>Department/Section:</u> Transportation/Airport	<u>Phone:</u> 541-2471
<u>City Manager Signature:</u>		

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

Mesilla Capital Investments, LLC (Dr. Osvaldo De La Vega, Principal) currently holds a land lease for a 100' x 100' parcel known as Parcel 24 at the Las Cruces International Airport. The lease was originally approved in favor of Norman O. Peck pursuant to Resolution No. 98-355 on May 18, 1998 for a term of 30 years. On November 6, 2006, Norman O. Peck assigned the lease to Mesilla Capital Investments, LLC pursuant to Resolution No. 07-162. There is a large single-bay hangar used for the storage of aircraft on the leased property.

Dr. Osvaldo De La Vega requests that the lease be assigned from Mesilla Capital Investments, LLC to Icarus Aero, LLC another company he owns. The lease terms allow assignment with the approval of City Council and also states that the owner of the improvements on the parcel must also hold the land lease. Section 7.5-3 of the Las Cruces Municipal Code, 1997, as amended requires City Council approval of all airport land leases.

The Airport Advisory Board (AAB) unanimously recommended approval of the assignment of the lease request at their September 15, 2016 meeting.

(Continue on additional sheets as required)

SUPPORT INFORMATION:

1. Resolution.
2. Exhibit "A", Assignment of Lease, Legal Description, and Parcel Location Map.
3. Attachment "A", Excerpt from Parcel 24 Land Lease with conditions to assign.
4. Attachment "B", Letter from Dr. Osvaldo De La Vega, Principal of Icarus Aero, LLC requesting the assignment of lease for Parcel 24.

SOURCE OF FUNDING:

Is this action already budgeted? N/A	Yes	<input 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.
Does this action create any revenue?	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
N/A	N/A	N/A	N/A	N/A	N/A

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this will authorize Mesilla Capital Investments, LLC to assign the land lease for Parcel 24 at the Las Cruces International Airport to Icarus Aero, LLC.
2. Vote "No"; this will not authorize Mesilla Capital Investments, LLC to assign the land lease for Parcel 24 at the Las Cruces International Airport to Icarus Aero, LLC. They would have to enter into a new lease for the parcel.
3. Vote to "Amend"; as deemed appropriate. This will not authorize Mesilla Capital Investments, LLC to assign the land lease for Parcel 24 at the Las Cruces International Airport to Icarus Aero, LLC.

(Continue on additional sheets as required)

4. Vote to "Table"; and direct staff accordingly. This will not authorize Mesilla Capital Investments, LLC to assign the land lease for Parcel 24 at the Las Cruces International Airport to Icarus Aero, LLC.

REFERENCE INFORMATION:

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

1. Resolution No. 98-355.
2. Resolution No. 07-162.



City of Las Cruces®

PEOPLE HELPING PEOPLE

COUNCIL ACTION AND EXECUTIVE SUMMARY PACKET ROUTING SLIP

For Meeting of _____
 (Ordinance First Reading Date)

For Meeting of November 7, 2016
 (Adoption Date)

TITLE: A RESOLUTION AUTHORIZING AN ASSIGNMENT OF LAND LEASE FOR PARCEL 24 AT THE LAS CRUCES INTERNATIONAL AIRPORT FROM MESILLA CAPITAL INVESTMENTS, LLC TO ICARUS AERO, LLC.

Purchasing Manager's Request to Contract (PMRC) {Required?} Yes No

DEPARTMENT	SIGNATURE	PHONE NO.	DATE
Drafter/Staff Contact	<i>Lisa Murphy</i>	541-2471	9-29-16
Department Director	<i>Dan Maceto</i>	541-2048	10-3-16
Other			
Assistant City Manager /CAO	<i>Annunzio</i>	541-2078	10/6/16
Management & Budget Manager	<i>Greg MacGregor</i>	541-2080	10/5/16
Assistant City Manager/COO	<i>John D. Avila</i>	541-2271	10/7/16
City Attorney	<i>W. B. [unclear]</i>	541-2128	11 OCT 2016
City Clerk	<i>[unclear]</i>	541-2115	10-14-16

RESOLUTION NO. 17-085

A RESOLUTION AUTHORIZING AN ASSIGNMENT OF LAND LEASE FOR PARCEL 24 AT THE LAS CRUCES INTERNATIONAL AIRPORT FROM MESILLA CAPITAL INVESTMENTS, LLC TO ICARUS AERO, LLC.

The City Council is informed that:

WHEREAS, Mesilla Capital Investments, LLC executed a land lease agreement with the City of Las Cruces (City) for Parcel 24 at the Las Cruces International Airport on November 6, 2006, pursuant to Resolution No. 07-162; and

WHEREAS, Paragraph 3a, Exhibit C of the lease provides that the Lessee may request an assignment of lease; and

WHEREAS, the owner of the hangar must also hold the land lease; and

WHEREAS, Mesilla Capital Investments, LLC has requested that the lease be assigned to Icarus Aero, LLC the owner of the hangar on the leased parcel.

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

(I)

THAT the Mayor is hereby authorized to sign the assignment of lease currently held by Mesilla Capital Investments, LLC to Icarus Aero, LLC attached hereto as Exhibit "A" and made a part of this Resolution.

(II)

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

DONE AND APPROVED this _____ day of _____, 20____.

APPROVED:

Mayor

ATTEST:

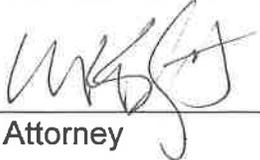
City Clerk

(SEAL)

Moved by: _____

Seconded by: _____

APPROVED AS TO FORM:



City Attorney

VOTE:

Mayor Miyagishima: _____

Councillor Gandara: _____

Councillor Smith: _____

Councillor Pedroza: _____

Councillor Eakman: _____

Councillor Sorg: _____

Councillor Levatino: _____

ICARUS AERO, LLC, by Dr. Osvaldo De La Vega,
Principal
Assignee

ATTEST:

(Seal)

STATE OF NEW MEXICO)
)ss.
COUNTY OF DONA ANA)

The foregoing instrument was acknowledged before me this _____ day of _____, 2016, by Icarus Aero, LLC, by Dr. Osvaldo De La Vega.

Notary Public

My Commission Expires:

CITY OF LAS CRUCES, NEW MEXICO
A municipal corporation

By: _____
Ken Miyagishima, Mayor

Approved as to form:

City Attorney

ATTEST:

(Seal)

STATE OF NEW MEXICO)
)ss.
COUNTY OF DONA ANA)

The foregoing instrument was acknowledged before me this ____ day of _____, 2016, by Ken Miyagishima, Mayor of the City of Las Cruces, New Mexico, a municipal corporation, on behalf of said corporation.

Notary Public

My Commission Expires:



City of Las Cruces

Lease Parcel 24
98S032-C
April 29, 1998

DESCRIPTION OF A 0.2296 ACRE PARCEL

A parcel of land situate within the corporate limits of the city of Las Cruces, Dona Ana County, New Mexico, in the NW 1/4 of Section 26, T.26S., R.1W., N.M.P.M. of the U.S.G.L.O. Surveys. Being part of the Las Cruces International Airport properties and more particularly described as follows, to witt:

BEGINNING at a 1/2" rebar set for the Northwest corner of the parcel herein described, whence Station CRUCESAIR of the New Mexico GPS High Accuracy Reference Network bears S81°19'21"W a distance of 2,185.14 feet;

THENCE FROM THE POINT OF BEGINNING N89°48'33"E 100.00 feet to a 1/2 inch rebar set for the Northeast corner of the parcel herein described;

THENCE S00°11'27"E 100.00 feet to a 1/2 inch rebar set for the Southeast corner of the parcel herein described;

THENCE S89°48'33"W 100.00 feet to a 1/2 inch rebar set for the Southwest corner of the parcel herein described;

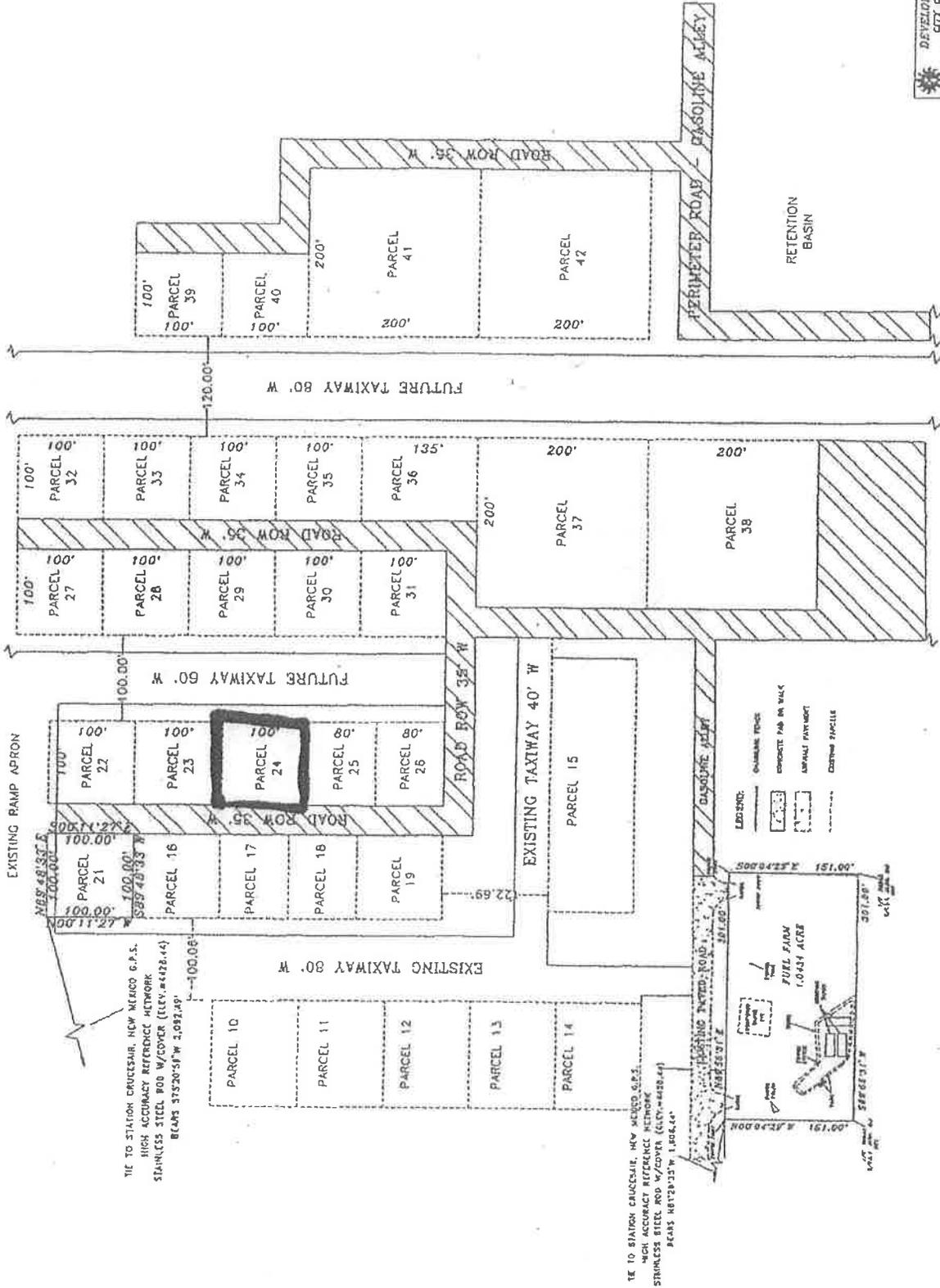
THENCE N00°11'27"W 100.00 feet to the point of beginning, containing 0.2296 acres of land more or less.

AUTHORITY STATEMENT: I, Gilbert Chavez, a New Mexico Registered Professional Surveyor certify that I directed and am responsible for this survey, that this survey is true and correct to the best of my knowledge and belief, and that this survey and plat meet the Minimum Standards for Surveying in New Mexico.

Gilbert Chavez
NMRPS 6832

4/29/98

PLAT SHOWING CASE PROPERTIES
 AT THE LAS CRUCES INTERNATIONAL AIRPORT
 NW 1/4 OF SECTION 26, T.23S., R.1W.,
 N.M.P.M. OF THE U.S.G.L.O. SURVEYS
 LAS CRUCES, DONA ANA COUNTY, NEW MEXICO



DEVELOPMENT SERVICES DIVISION
 CITY OF LAS CRUCES, NEW MEXICO
 PROJECT NO. 97-5-111
 SHEET NO. 105 OF 111
 DATE: 10/11/01
 DRAWN BY: [Name]
 CHECKED BY: [Name]
 APPROVED BY: [Name]

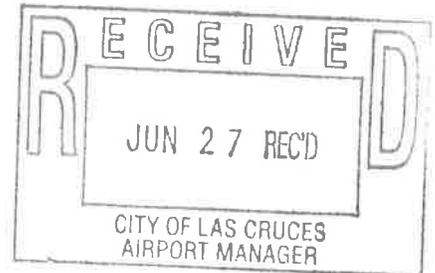
EXHIBIT C
City of Las Cruces, New Mexico, International Airport. Additional Lease Conditions
PARCEL #24, NORMAN O. PECK, LESSEE

1. **Obtain Permits, Pay Taxes, and Obey Laws.**
 - a. Lessee shall pay when due all valid taxes, special assessments, excises, license fees and permit fees of whatever nature applicable to its operation or levied or assessed against the Airport, or improvements thereto. Lessee shall take out and keep current all licenses, permits, and certificates (City, County, State and Federal) required for the conduct of its activities at and upon the Airport, and further agrees not to permit any of said taxes, excise or license fees to knowingly become delinquent.
 - b. Lessee shall, at its own expense, fully comply with all laws, regulations, rules, ordinances, and requirements of the applicable City, County, State and Federal authorities and agencies which affect this Lease, the land granted by this Lease, any improvements upon the Leasehold, and/or operations thereon. Such compliance shall be with any laws, regulations, rules, ordinances or requirements which have been or may be enacted or promulgated during the effective period of this Lease.
 - c. Lessee recognizes the authority of the City Council and staff to take those necessary and legal actions required to safeguard any person, aircraft, equipment or property at the Airport. Lessee agrees to abide by any suspension, restriction, or designation of specific procedures applicable to any or all Airport operations whenever such actions are established by such authorities.
2. **Obey Federal Non-Discrimination Requirements.** Lessee, itself and its successors in interest, and assigns, will abide by the following requirements of the various federal statutes affecting the Airport:
 - a. **No Discrimination in Service.** Furnish services on a fair, equal, and not unjustly discriminatory basis to all users thereof. No person on the grounds of race, sex, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said business. Further, that in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the grounds of race, sex, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination.
 - b. **No Discrimination in Pricing.** Charge fair, reasonable, and not unjustly discriminatory prices for each unit or service, provided, that the Lessee may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.
 - c. **Comply with Federal Law.** Lessee shall conduct business in compliance with all other requirements imposed by or pursuant to 48 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation and as said Regulation may be amended.
 - d. **No Exclusive Rights Granted.** Lessee agrees that no exclusive right for the use of the Airport by any persons is intended or implied by this document.
3. **Assignment And Sublease.**
 - a. **City Consent Required.** Lessee shall not assign or sublease the rights granted by this Lease, nor the Leased parcel, nor the improvements constructed or occupied in accordance with this Lease, without the prior written consent of the City, which consent shall not be unreasonably withheld. The City may condition such consent upon an increase in the Rent, and may require other conditions or covenants before consenting to an assignment or sublease. Such additional rent, conditions or covenants shall be in accord with those terms and conditions for similar agreements in effect at the time of the assignment, sublease, or sale. If the Lease is assigned or subleased, all clauses herein binding the parties hereto are also binding on any and all successors and/or assigns, unless specifically amended by the City as a condition of consent.
 - b. **Assignment Relieves Lessee.** Upon a valid assignment of this Lease, but not upon a sublease, the Lessee shall be relieved of all obligations and liabilities arising from this Lease effective as of the date of the assignment.
4. **Default and Termination.**
 - a. **Definition.** If the City determines the Lessee is in violation of any of the terms, conditions or covenants of this Lease, or the Lessee fails to pay, on time, any fees or charges due, the condition shall be considered a default of the Lease.

Icarus Aero, LLC
Osvaldo R De La Vega Sole MBR
755 S. Telshor, Suite S101
Las Cruces, NM 88011

June 22, 2016

Ms. Lisa Murphy
Airport Administrator
Las Cruces International Airport
P.O. Box 20000
Las Cruces, New Mexico 88004



Re: Lease Transfer Request – **725 Leonard Bryant Alley**

Dear Ms. Murphy:

We request approval to transfer the existing subleasehold interest for the referenced location to **Icarus Aero, LLC**, a New Mexico limited liability company whose principal is Dr. Osvaldo De La Vega

The new lessee will use the facility only for aviation-related purposes authorized under the main lease and as approved by the airport authority.

We ask that you assist with all arrangements and City Council approvals for this assignment to be completed. Thank you.

Sincerely,