

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

DEPARTMENT: El Paso Water Utilities Public Service Board

AGENDA DATE: Introduction – February 23, 2016
Public Hearing – March 8, 2016

CONTACT PERSON/PHONE: Cynthia Osborn, Real Estate Manager and Counsel, 594-5636

DISTRICT(S) AFFECTED: 6

SUBJECT: APPROVE the following Ordinance

Authorizing the City Manager to sign a Contract of Sale and a Special Warranty Deed and any other documents necessary to convey to Rose Rock/Partners Fourth Quarter Capital II, LLC, a 9.240 acre parcel of land in a portion of Tracts 7A and 8C, Block 55, Ysleta Grant, City of El Paso, El Paso County, Texas, located at I-10 and Zaragoza in Mission Valley.
(District 6) El Paso Water Utilities, Cynthia Osborn, Real Estate Manager and Counsel. (915) 594-5636

BACKGROUND / DISCUSSION:

This parcel of land is owned by the City of El Paso and managed by the El Paso Water Utilities - Public Service Board. The Public Service Board deemed the property inexpedient to the water system in 2012, and authorized the President/CEO of the El Paso Water Utilities –Public Service Board to forward the sale of the property to City staff for consideration. Following extensive coordination with City staff, including rezoning of the property, the property was appraised and put up for bid. The bid solicitation included all of the bid conditions recommended by City staff.

In July, 2015, the property appraised for \$4,025,000.00.

The sole bid for the property was for \$4,500,000.00.

In October 2015, The Public Service Board recommended that the property be sold to the highest bidder and authorized the President/CEO to forward the recommendation to the El Paso City Council for approval.

PRIOR COUNCIL ACTION:

Has the Council previously considered this item or a closely related one?

May 12, 2015, the City Council approved the sale to Arturo and Yessica Ambriz approximately 0.350 acres of land owned by the City of El Paso and managed by the El Paso Water Utilities – Public Service Board for infill development.

AMOUNT AND SOURCE OF FUNDING: N\A

BOARD / COMMISSION ACTION:

On August 8, 2012, the El Paso Water Utilities Public Service Board declared the property inexpedient to the system and authorized the President/CEO to sell the property.

On October 14, 2015, the El Paso Water Utilities Public Service Board recommended that the property be sold to Rose Rock/Partners Fourth Quarter Capital II, LLC and authorized the President/CEO to forward the recommendation to the El Paso City Council for approval.

AFTER EXECUTION OF ALL DOCUMENTS, PLEASE CONTACT CYNTHIA OSBORN TO PICK UP THE DOCUMENTS. 594-5636. THANK YOU.

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO SIGN A CONTRACT OF SALE AND SPECIAL WARRANTY DEED AND ANY OTHER DOCUMENTS NECESSARY TO CONVEY TO ROSE ROCK/PARTNERS FOURTH QUARTER CAPITAL II, LLC, A 9.240 ACRE PARCEL OF LAND IN A PORTION OF TRACTS 7A AND 8C, BLOCK 55, YSLETA GRANT, CITY OF EL PASO, EL PASO COUNTY, TEXAS, LOCATED AT I-10 AND ZARAGOZA IN MISSION VALLEY.

WHEREAS, the El Paso Water Utilities - Public Service Board (EPWU/PSB) determined approximately 9.240 acres of land being a portion of Tracts 7A and 8C, Block 55, Ysleta Grant, City of El Paso, El Paso County, Texas, located at I-10 and Zaragoza in Mission Valley, to be inexpedient to the water system and should be sold in accordance with state law; and,

WHEREAS, the El Paso Water Utilities Pubic Service Board (EPWU/PSB) holds certain real properties in its land inventory, including this parcel of land, that are owned by the City of El Paso, but are under the management and control of the EPWU/PSB; and,

WHEREAS, at its regular meeting on August 8, 2012, the Public Service Board determined that this parcel of land is inexpedient to the EPWU/PSB system and authorized the President/CEO to have the land appraised and put out for bid to the public; and,

WHEREAS, at its regular meeting of October 14, 2015, the EPWU/PSB awarded the sale bid to Rose Rock/Partners Fourth Quarter Capital II, LLC, the sole bidders, for the bid amount of \$4,500,000.00, and adopted a Resolution making the findings set forth hereinabove and requesting the El Paso City Council pass an Ordinance authorizing the City Manager to sign a Contract of Sale and a Special Warranty Deed and any and all necessary documents to complete the conveyance to Rose Rock/Partners Fourth Quarter Capital II, LLC;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO, TEXAS;

That the City Manager is authorized to sign a contract of sale, special warranty deed and any other necessary documents, in a form approved by the City Attorney's Office, conveying to Rose Rock/Partners Fourth Quarter Capital II, LLC, the following identified real property:

A 9.240 acre parcel of land, more or less, situated in a portion of Tracts 7A and 8C, Block 55, Ysleta Grant, City of El Paso, El Paso County Texas as more particularly described in Exhibit "A" attached hereto and made a part hereof for all purposes.

PASSED AND APPROVED this ____ day of _____, 2016.

CITY OF EL PASO

Oscar Leaser,
Mayor

ATTEST:

Richarda D. Momsen,
City Clerk

APPROVED AS TO FORM:

Theresa Cullen,
Deputy City Attorney

APPROVED AS TO CONTENT AND FORM:

Cynthia Osborn,
EPWU Real Estate Manager and Counsel

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED OF RECORD IN THE PUBLIC RECORDS: SOCIAL SECURITY NUMBER AND DRIVER'S LICENSE NUMBER.

SPECIAL WARRANTY DEED

Date: _____, 2016

Grantor: The City of El Paso, Texas, a Texas municipal corporation
On Behalf of its El Paso Water Utilities Public Service Board

Grantor's Mailing Address (including county): 1154 Hawkins Blvd.
El Paso County, Texas 79925

Grantee: Rose Rock/Partners Fourth Quarter Capital II, LLC

Grantee's Mailing Address (including county): 318 North Bryan Avenue
Bryan, Texas 77803

Consideration: TEN AND NO/100 DOLLARS (\$10.00) and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged and confessed.

Property:

Being a 9.240 acre parcel of land, legally described as portion of Tracts 7A and 8C, Block 55, Ysleta Grant, City of El Paso, El Paso County Texas as more particularly described by metes and bounds in Exhibit "A" attached hereto and incorporated herein by this reference for all purposes, hereinafter, the "Property".

USE RESTRICTIONS:

For a period of seventy-five (75) years from the date of conveyance, the GRANTEE, its successors and assigns, will not, in violation of any laws, discard, place or store upon such land, any radioactive material or other materials which would contaminate or otherwise damage the groundwater supply or resources of the City of El Paso, including, but not limited to, those of its El Paso Water Utilities Public Service Board.

RESERVATIONS FROM AND EXCEPTIONS TO CONVEYANCE AND WARRANTY:

This conveyance is subject to all easements, rights-of-way, and prescriptive rights of record, all presently recorded instruments, other than liens and conveyances, affecting the Property. The following additional conditions, reservations and exceptions apply:

1. The Property is conveyed to GRANTEE subject to a reservation by GRANTOR of a (20) foot wide permanent utility easement and a (20) wide temporary construction utility easement for the benefit of El Paso Water Utilities running from north to south and east to west for underground El Paso Water Utilities water and sanitary sewer lines, including access thereto for purposes of operation, maintenance, repairs, construction, inspection, and replacement or relocation as may be required within such easement and such other activities which may be necessary for GRANTOR's operation of its public utilities using such underground easement, which easement is more fully described in the survey attached hereto as Exhibit "B" and incorporated herein by reference for all purposes (hereinafter the "Pipeline Easement"). This reservation by GRANTOR of this Pipeline Easement shall be perpetual over the Property for the benefit of GRANTOR and its successors and assigns.

The GRANTOR agrees that its use of the Easement shall not otherwise interfere with the GRANTEE'S use of the Property. GRANTOR agrees that it will replace or repair, as reasonable, any landscaping and paving if disturbed by GRANTOR'S construction, maintenance or repair of or to its facilities in and upon such easement. GRANTOR shall promptly restore to as good condition as before working thereon all of the Property excavated by it with regard to the GRANTOR's use of the Easement.

GRANTEE agrees not to erect any permanent structures or obstruct access in, over, or under GRANTOR'S facilities.

GRANTEE shall have the right to the full use and enjoyment of the Property except for the purposes herein reserved.

2. Any development shall include a thirty (30) foot wide access easement running with the land, along the southern boundary of the subject Property; from Zaragoza, through the subject Property, to the approximately 31.9 acre site immediately east of the subject Property, reserving access to the 31.9 acre site in the event of future development of the 31.9 acre site, the access easement as more particularly described in Exhibit "C". No permanent structures, including buildings, will be permitted over the (30) foot wide access easement.
3. Terms and conditions from Contract of Sale signed by Grantee on December 18, 2015, attached hereto as Exhibit "D".
4. The Property is conveyed to GRANTEE subject to the following exceptions and prior reservations:
 - a. Visible and apparent easements for roads and public utilities existing on the ground.
 - b. Easement to EL PASO ELECTRIC COMPANY, in Volume 1773, Page 310, filed on December 11, 1963, and in Volume 1284, Page 1417, filed on August 30, 1982, Real Property Records, El Paso County, Texas.
 - c. Terms, conditions, provisions and stipulations set out in and relating to that certain City of El Paso Ordinance No. 018368, passed and approved on June 9, 2015, filed on

August 13, 2015, under Clerk's No. 20150056942, Real Property Records, El Paso County, Texas.

- d. Claims by the Tigua Indian Tribe of the Ysleta del Sur Pueblo, as evidenced by that certain Affidavit concerning filing of Notice of Claim to the Ysleta Grant and Aboriginal Title Areas, executed by Julian Granillo, Governor of the Ysleta del Sur Pueblo Indian Tribe, also known as the Tigua Indian Community, dated April 12, 1993, filed on April 16, 1993 in Volume 2553, Page 1958, of the Real Property Records, El Paso County, Texas.
5. Grantor hereby, for itself, its successors and assigns forever, reserves all water in and under, and that may be produced from or attributable to the Property. If the water estate is subject to existing production or an existing license, this reservation includes the production, the license and all benefits from it: provided, however that Grantor hereby waives any right of ingress and egress to the surface of the Property for the purpose of exploring, drilling, developing or producing same.
6. Grantee shall be responsible, at its own cost, to conduct any necessary archeological or environmental survey or studies.
7. Grantor, for the consideration and subject to the restrictions, reservations from and exceptions to conveyance and warranty, grants, sells, and conveys to Grantee the Property, together with all and singular the rights and appurtenances thereto in any wise belonging, to have and hold it to Grantee, Grantee's heirs, executors, administrators, successors or assigns forever. Grantor binds Grantor and Grantor's successors to warrant and forever defend all and singular the Property to Grantee and Grantee's heirs, executors, administrators, successors and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof, except as to the reservations from and exceptions to conveyance and warranty, when the claim is by, through, or under Grantor but not otherwise.
8. The GRANTOR has executed and delivered this Deed, and the GRANTEE, by recording this Deed, has accepted this Deed and has purchased the Property "AS IS, WHERE IS" AND WITH ALL FAULTS, AND EXCEPT AS TO THE WARRANTY OF TITLE, WITHOUT ANY REPRESENTATIONS OR WARRANTIES OF WHATSOEVER KIND, EXPRESS OR IMPLIED, WRITTEN OR ORAL, IT BEING THE INTENTION OF THE GRANTOR AND THE GRANTEE TO EXPRESSLY NEGATE AND EXCLUDE ALL REPRESENTATIONS AND WARRANTIES OF ANY KIND, INCLUDING BUT NOT LIMITED TO THOSE REGARDING: (A) THE CONDITION OF THE PROPERTY; (B) THE SUITABILITY OF THE PROPERTY FOR ANY AND ALL ACTIVITIES AND USES WHICH THE GRANTEE MAY CONDUCT THEREON; (C) THE COMPLIANCE OF OR BY THE PROPERTY OR ITS OPERATION WITH ANY APPLICABLE LAWS, RULES, ORDINANCE OR REGULATIONS OF ANY APPLICABLE GOVERNMENTAL AUTHORITY OR BODY; (D) THE HABITABILITY, MERCHANTABILITY, PROFITABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE PROPERTY. THE GRANTEE FURTHER ACKNOWLEDGES AND AGREES THAT, HAVING BEEN GIVEN THE

OPPORTUNITY TO INSPECT THE PROPERTY, THE GRANTEE IS RELYING SOLELY ON ITS OWN INVESTIGATION OF THE PROPERTY AND NOT ON ANY INFORMATION PROVIDED BY THE GRANTOR. THE GRANTEE FURTHER ACKNOWLEDGES AND AGREES THAT ANY INFORMATION PROVIDED OR TO BE PROVIDED WITH RESPECT TO THE PROPERTY WAS OBTAINED FROM A VARIETY OF SOURCES AND THAT THE GRANTOR HAS NOT MADE AN INDEPENDENT INVESTIGATION OR VERIFICATION OF SUCH INFORMATION AND MAKES NO REPRESENTATIONS AS TO THE ACCURACY OR COMPLETENESS OF SUCH INFORMATION. THE GRANTOR IS NOT LIABLE OR BOUND IN ANY MANNER BY ANY VERBAL OR WRITTEN STATEMENTS, REPRESENTATIONS OR INFORMATION PERTAINING TO THE PROPERTY, OR THE OPERATION THEREOF, FURNISHED BY ANY BROKER, AGENT, ATTORNEY, EMPLOYEE OR OTHER PERSON. IT IS UNDERSTOOD AND AGREED THAT THE PURCHASE PRICE FOR THE PROPERTY REFLECTS THAT ALL OF THE PROPERTY IS SOLD BY THE CITY AND PURCHASED BY THE GRANTEE SUBJECT TO THE FOREGOING.

9. AFTER CLOSING, BETWEEN THE GRANTOR AND THE GRANTEE, THE RISK OF LIABILITY OR EXPENSE FOR ENVIRONMENTAL PROBLEMS, EVEN IF ARISING FROM EVENTS BEFORE THE CLOSING, WILL BE THE SOLE RESPONSIBILITY OF THE GRANTEE, REGARDLESS OF WHETHER THE ENVIRONMENTAL PROBLEMS WERE KNOWN OR UNKNOWN AT CLOSING. ONCE CLOSING HAS OCCURRED, THE GRANTEE INDEMNIFIES, HOLDS HARMLESS AND RELEASES THE GRANTOR FROM LIABILITY FOR ANY LATENT DEFECTS AND FROM ANY LIABILITY FOR ENVIRONMENTAL PROBLEMS AFFECTING THE PROPERTY, INCLUDING LIABILITY UNDER THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION AND LIABILITY ACT (CERCLA), THE RESOURCE CONSERVATION AND RECOVERY ACT (RCRA), THE TEXAS SOLID WASTE DISPOSAL ACT, OR THE TEXAS WATER CODE. THE GRANTEE INDEMNIFIES, HOLDS HARMLESS AND RELEASES THE GRANTOR FROM ANY LIABILITY FOR ENVIRONMENTAL PROBLEMS AFFECTING THE PROPERTY ARISING AS THE RESULT OF THE GRANTOR'S OWN NEGLIGENCE OR THE NEGLIGENCE OF THE GRANTOR'S REPRESENTATIVES. THE GRANTEE INDEMNIFIES, HOLDS HARMLESS, AND RELEASES THE GRANTOR FROM ANY LIABILITY FOR ENVIRONMENTAL PROBLEMS AFFECTING THE PROPERTY ARISING AS THE RESULT OF THEORIES OF PRODUCTS LIABILITY AND STRICT LIABILITY, OR UNDER NEW LAWS OR CHANGES TO EXISTING LAWS ENACTED AFTER THE EFFECTIVE DATE THAT WOULD OTHERWISE IMPOSE ON THE GRANTOR IN THIS TYPE OF TRANSACTION NEW LIABILITIES FOR ENVIRONMENTAL PROBLEMS AFFECTING THE PROPERTY.

EXECUTED the ____ day of _____, 2016.

(Signatures and acknowledgement on following page)

GRANTOR:
THE CITY OF EL PASO, TEXAS

Tomás González, City Manager

APPROVED AS TO FORM:

Theresa Cullen
Deputy City Attorney

APPROVED AS TO FORM AND CONTENT:

Cynthia Osborn
Real Estate Manager and Counsel

ACKNOWLEDGEMENT

STATE OF TEXAS }
COUNTY OF EL PASO }

This instrument was acknowledged before me on the _____ day of _____,
2016, by Tomás González, the City Manager of the City of El Paso, Texas.

Printed Name: _____
Notary Public, State of Texas

STATE OF TEXAS §

§

CONTRACT OF SALE

COUNTY OF EL PASO §

This Agreement ("Agreement") is entered into, by and between the **CITY OF EL PASO on behalf of the El Paso Water Utilities Public Service Board**, hereinafter referred to as the "PSB" as Seller and **ROSE ROCK/PARTNERS FOURTH QUARTER CAPITAL II, LLC**, hereinafter referred to as the "Buyer."

NOW THEREFORE, for and in consideration of the premises and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **Description of Property.** The City hereby agrees to sell and convey and the Buyer hereby agrees to acquire the following described real property located in El Paso County, Texas:

A 9.240 acre parcel situated within the corporate limits of the City of El Paso, El Paso County, Texas as a portion of Tracts 7A and 8C, Block 55, Ysleta Grant, City of El Paso, El Paso County, Texas and being more particularly described in Exhibit "A",

together with any interest in (i) all improvements and fixtures, and (ii) all right, title and interest of the PSB in and to all easements, appurtenances, and right-of-ways, and all interests in, on or to, any land, highway or street, in, on, across, in front of, abutting, or adjoining any such real property, all of such property, hereinafter referred to as the "Property." In addition, the following conditions will be applicable to the PSB's sale of the Property:

- 1.1 **Radioactive Materials.** Any conveyance of this Property will be subject to a restrictive covenant in the Deed to the effect that the Buyer, its successors or assigns, will not, in violation of any applicable laws, discard, place, or store upon such land, any radioactive material or other materials which would contaminate or otherwise damage the ground water supply or resources of the PSB.
- 1.2 **Surveys.** The Buyer accepts responsibility for conducting its own archeological and environmental surveys of the Property. Mitigation of any conditions on the Property, including archeological sites or, without limitations, adverse environmental conditions, shall be at the expense of the Buyer who shall take the Property subject to all existing conditions. The Buyer accepts responsibility for its determination of the nature and extent of any archeological sites, or without limitations, any adverse environmental conditions by its complete inspection of the Property.
- 1.3 **Easements.** Easements for water and wastewater lines, if not located in public streets, shall be provided at no cost to the City and its Public Service Board.
The property shall be conveyed to Buyer subject to the following easement:
 - (a) The property will be conveyed to Buyer at closing subject to a reservation by Seller of a 20' wide permanent utility easement and a 20' wide temporary construction easement, as described on the attached Exhibit "B", for the benefit

of Seller. No permanent structures or buildings will be permitted over the 20' wide permanent utility easement. Any landscaping and or surfacing plans over the 20' wide permanent utility easement shall be submitted to Seller for review and approval.

1.4 General Development Requirements:

- a. The Buyer shall be required to make use of Low Impact Development Practices (LID). The drainage must follow low impact practices for the development of the Property and shall be reviewed and approved by the City of El Paso. The LID standards shall promote the following measures:
 1. Encourage drainage conservation measures.
 2. Promote impact minimization techniques such as impervious surface reduction.
 3. Provide for strategic runoff timing by slowing flow using the landscape.
 4. Use an array of integrated management practices to reduce and cleanse runoff.
 5. Advocate pollution prevention measures to reduce the introduction of pollutants to the environment.
- b. A wall consisting of rock and wrought iron, similar in design to the existing rock and wrought iron wall located in the adjacent park along Zaragoza, will be erected by the successful bidder where the Property abuts the parkland area along the southerly lot boundary of the Property.
- c. The rock and wrought iron wall shall include a five-foot wide opening to allow for pedestrian access from the subject property to the adjacent park. The opening shall remain open and unobstructed in perpetuity. The opening shall be located directly across from the existing gate opening located on City park property, allowing for direct and unimpeded pedestrian access between the subject Property and the adjacent park. The successful bidder shall coordinate with the City of El Paso on the exact placement of opening.
- d. A traffic impact analysis will be required prior to the submittal of the subdivision application and funding for all mitigation measures to be paid at the time of plat recording. Any improvements identified in the traffic impact analysis will be completed and constructed prior to the issuance of a certificate of occupancy for any building.
- e. Any development shall include a thirty (30) foot access easement running with the land, along the southern boundary of the subject Property; from Zaragoza, through the subject Property, to the 30 acre site immediately east of the subject Property, reserving access to the 30 acre site in the event of future development of the 30 acre site, the access easement as more particularly described in Exhibit "C" and shown in Exhibit "D". No permanent structures, including buildings, will be permitted over the thirty (30) foot wide access easement.

- 1.5 Groundwater.** All ground water, water rights, or rights to surface water shall be reserved to the PSB and will be subject to all easements, restrictions, reservations, rights of way, dedications and other encumbrances of record or apparent upon the Property.

Buyer will not have the right to drill a well and produce therefrom any quantity of groundwater. The reservation of water rights will include a waiver of Sellers' right to use the surface of the Property for or in relation to the exploration or production of the reserved water rights.

- 1.6 **Feasibility Period.** Beginning on the Effective Date, the Seller hereby grants to Buyer a thirty (30) day feasibility study time to make its inspections ("Feasibility Period"). The Buyer may terminate the Agreement on or before the end of the Feasibility Period and the parties will have no further obligations under this Agreement, provided however, that PSB shall retain the Earnest Money as consideration for Buyer's right to terminate as set forth herein.
2. **Amount of Payment of Purchase Price.** The purchase price for the Property shall be FOUR MILLION FIVE HUNDRED THOUSAND DOLLARS AND 00/100 (\$4,500,000.00) plus Buyer will pay all closing costs.
 - 2.1 **Payment of Sales Price.** The full amount of the purchase price will be payable in cash at the Closing.
 - 2.2 **Earnest Money.** The PSB acknowledges the receipt of earnest money (the "Earnest Money") paid to the PSB by the Buyer in the amount of TWO HUNDRED AND TWENTY FIVE THOUSAND DOLLARS AND 00/100 (\$225,000.00) which will be credited to the purchase price at the time of Closing.
3. **Conditions to the Buyer's Obligations.** The obligations of the Buyer hereunder are to consummate the transaction contemplated herein are subject to the satisfaction of each of the following conditions, any of which may be waived, in whole or in part, in writing by the Buyer, at or prior to Closing. In the event any of the conditions are not satisfied on or before the Closing, Buyer may, in its sole discretion, terminate this Agreement. Should Buyer terminate this Agreement, the Seller shall retain the Earnest Money.
 - 3.1 **Title Insurance.** Within fourteen (14) days after receipt of written notification of the PSB's acceptance of the Buyer's offer, the Buyer shall provide the PSB with all information necessary to close the sale with the intent that, without good cause existing or further delay, it is anticipated that the PSB and the Buyer will close within thirty (30) days from the date of the approval of the City Council of an ordinance authorizing the sale of the Property. In the event that the City Council has not passed an Ordinance authorizing the sale of the Property within ninety (90) days of the execution of this Agreement. Buyer shall have the right, exercisable at any time prior to the City Council passing such Ordinance, to terminate this Agreement and receive a return of the Earnest Money. The Buyer at its expense will order a title commitment ("Commitment") from Lone Star Title Company of El Paso, Inc., 6701 N. Mesa Street, El Paso, Texas 79912, accompanied by copies of all recorded documents affecting the Property for the issuance of an Owner's Policy of Title Insurance with respect to the Property, in an amount to be decided by the Buyer ("Owner's Policy").

- 3.2 **Title Objections.** The Buyer will give the PSB written notice after it receives the Commitment that the condition of the title set forth in the Commitment is or is not satisfactory. In the event the Buyer states that the condition is not satisfactory, the Buyer will specifically set forth in such notice the defect or exception to title that is deemed objectionable. The PSB may promptly undertake to eliminate or modify all unacceptable matters to the reasonable satisfaction of the Buyer. Otherwise, this condition will be deemed acceptable and any objection by the Buyer will be deemed waived.
4. **Representations of PSB.** The PSB hereby represents, to the extent allowed by law, to the Buyer, that to the best of its knowledge, as follows:
- 4.1 **Parties in Possession.** At the time of closing, other than the Buyer, there are no parties in possession of any portion of the Property as lessees, tenants at sufferance.
- 4.2 **Mechanic's Lien.** (i) No action has been taken, suffered or permitted by or on behalf of the PSB, the effect of which would be to establish or cause the inception or priority of any mechanic's or materialmen's lien, statutory, constitutional or otherwise, or other lien, charge or encumbrance upon the Property or any part thereof or interest therein; and (ii) no liens or lien claims, choate or inchoate, arising from the PSB's actions or otherwise, exist or can exist for the benefit of mechanics or materialmen in regard to the Property; and (iii) except as expressly disclosed in the documents relating to this transaction, the PSB has not entered into any contracts or agreements relating to the use or ownership of the Property or by which any person or entity agreed to provide labor, services or materials in regard to the Property or the business of the PSB.
- 4.3 **Litigation.** There is no pending or contemplated litigation before or by any court of law pertaining to the Property or which involve incidents occurring on the Property including, but not limited to, claims of damage to persons or Property.
- 4.4 **Bills Paid.** At Closing, there will be no unpaid bills or claims in connection with any repair or operation of the Property as a result of the PSB's ownership.
- 4.5 **Compliance Law.** All laws, ordinances, rules and regulations of any Government or any agency, body or subdivision thereof, bearing in the PSB's ownership, sale, and development of the Property, have been complied with.
- 4.6 **Taxes.** While the PSB owned the Property, the Property was exempt from ad valorem taxes.
- 4.7 **Pre-Closing Claims.** PSB agrees that the Buyer's acceptance of title to the Property under the conveyance documents should not create any liability on the Buyer's part to third parties that have claims of any kind against the PSB in connection with the Property. The PSB hereby expressly disclaims any and all liability to third parties that have any claims against the PSB.

- 4.8 **Condition of Property Prior to Closing.** Prior to Closing, the PSB shall not create or permit to be created any easement or other condition affecting the Property without the prior written consent of the Buyer, other than those already identified herein.
- 4.9 **“AS IS, WHERE IS”.** THIS AGREEMENT IS AN ARMS-LENGTH AGREEMENT BETWEEN THE PARTIES. THE PURCHASE PRICE WAS BARGAINED ON THE BASIS OF AN “AS IS, WHERE IS” TRANSACTION. THE BUYER ACCEPTS THE AS IS, WHERE IS, AND WITH ALL FAULTS, AND EXCEPT AS THE WARRANTY OF TITLE AND EXCEPT FOR THE WARRANTIES AND REPRESENTATIONS SET FORTH IN THIS AGREEMENT, WITHOUT ANY REPRESENTATIONS OR WARRANTIES OF WHATSOEVER KIND, EXPRESS OR IMPLIED, WRITTEN OR ORAL, IT BEING THE INTENTION OF THE PSB AND THE BUYER TO EXPRESSLY NEGATE AND EXCLUDE ALL REPRESENTATIONS AND WARRANTIES OF ANY KIND, INCLUDING, BUT NOT LIMITED TO THOSE REGARDING: (A) THE CONDITION OF THE PROPERTY; (B) THE SUITABILITY OF THE PROPERTY FOR ANY AND ALL ACTIVITIES AND USES WHICH THE BUYER MAY CONDUCT THEREON; (C) THE COMPLIANCE OF OR BY THE PROPERTY OR ITS OPERATION WITH ANY LAWS, RULES, ORDINANCES OR REGULATIONS OF ANY APPLICABLE GOVERNMENTAL AUTHORITY OR BODY; AND (D) THE HABITABILITY, MERCHANTABILITY, MARKETABILITY, PROFITABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE PROPERTY. THE BUYER FURTHER ACKNOWLEDGES AND AGREES THAT, HAVING BEEN GIVEN THE OPPORTUNITY TO INSPECT THE PROPERTY, THE BUYER IS RELYING SOLELY ON ITS OWN INVESTIGATION OF THE PROPERTY AND NOT ON ANY INFORMATION PROVIDED OR TO BE PROVIDED BY THE PSB OTHER THAN AS REGARDS THE EXISTING PSB EASEMENTS AND THE PSB PIPELINES AND EQUIPMENT WITHIN SUCH EASEMENTS. THE BUYER FURTHER ACKNOWLEDGES AND AGREES THAT ANY INFORMATION PROVIDED OR TO BE PROVIDED WITH RESPECT TO THE PROPERTY WAS OBTAINED FROM A VARIETY OF SOURCES AND THAT THE PSB HAS NOT MADE ANY INDEPENDENT INVESTIGATION OR VERIFICATION OF SUCH INFORMATION AND MAKES NO REPRESENTATIONS AS TO THE ACCURACY OR COMPLETENESS OF SUCH INFORMATION. THE PSB IS NOT LIABLE OR BOUND IN ANY MANNER BY ANY VERBAL OR WRITTEN STATEMENTS, REPRESENTATIONS OR INFORMATION PERTAINING TO THE PROPERTY, OR THE OPERATION THEREOF, FURNISHED BY ANY BROKER, AGENT, ATTORNEY, EMPLOYEE OR OTHER PERSON. IT IS UNDERSTOOD AND AGREED THAT THE PURCHASE PRICE FOR THE PROPERTY REFLECTS THAT ALL OF THE PROPERTY IS SOLD BY THE PSB AND PURCHASED BY THE BUYER SUBJECT TO THE FOREGOING.
- 4.10 **ENVIRONMENTAL MATTERS.** AFTER CLOSING, BETWEEN THE PSB AND THE BUYER, THE RISK OF LIABILITY OR EXPENSE FOR ENVIRONMENTAL PROBLEMS, EVEN IF ARISING FROM EVENTS BEFORE CLOSING, WILL BE THE SOLE RESPONSIBILITY OF THE BUYER, REGARDLESS OF WHETHER

THE ENVIRONMENTAL PROBLEMS WERE KNOWN OR UNKNOWN AT CLOSING. ONCE CLOSING HAS OCCURRED, THE BUYER SHALL INDEMNIFY, HOLD HARMLESS, AND RELEASE THE PSB FROM LIABILITY FOR ANY LATENT DEFECTS AND FROM ANY LIABILITY FOR ENVIRONMENTAL PROBLEMS AFFECTING THE PROPERTY, INCLUDING LIABILITY UNDER THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT (CERCLA), THE RESOURCE CONSERVATION AND RECOVERY ACT (RCRA), THE TEXAS SOLID WASTE DISPOSAL ACT, OR THE TEXAS WATER CODE.

4.11 **Buyer's use.** The Buyer represents to the PSB that it intends to use the property in accordance with the conditions in Exhibit "E" (Bid Document #53-15) attached hereto and made a part hereof for all purposes. Buyer will comply with all City, State and Federal Law and/or Ordinances.

4.12 **Survival.** All agreements of the PSB made in this document shall survive the execution and delivery hereof and the Closing hereunder, until such time as all of the obligations of the signatories shall have lapsed in accordance with their respective terms or shall have been discharged in full.

5. **Closing.** The closing of this transaction ("Closing") shall take place at the offices of Lone Star Title Company of El Paso, Inc., 6701 N. Mesa Street, El Paso, Texas 79912, on or before thirty (30) days after the execution of this Agreement by the El Paso Water Utilities President/CEO and the City Manager of the City of El Paso, subject to delays due to the PSB's efforts to cure any title objection under Section 3.2.

5.1 **Possession.** Possession of the Property will be transferred to the Buyer upon Closing.

5.2 **Closing Costs.**

(a) All recording fees arising from the recordation of documents necessary to show good title to the Property in the Buyer shall be paid by the Buyer.

(b) Premiums and other charges for the issuance of the Owner's Policy of Title Insurance for the Property shall be paid by the Buyer.

(c) BUYER will pay Escrow Fees.

(d) Real Estate Appraisal, Survey and Advertising fess shall be paid by the Buyer.

5.3 **PSB's Obligations.** At Closing, the PSB shall deliver to the Buyer a duly executed and acknowledged Special Warranty Deed conveying the Property and any related easements, free and clear of any and all liens, encumbrances, conditions, assessments, and restrictions, except for (i) ad valorem taxes for the year of Closing, if any, which shall be prorated to the date of Closing, and assumed by the Buyer upon closing, and (ii) and

other exceptions set forth in the Title Policy, as approved by Buyer, pursuant to Paragraph 4 above.

- 5.4 **Other Obligations.** Each party shall do all other acts, or deliver any other instruments or documents required or helpful to be done or delivered, in order to consummate this transaction.

6. **Default.**

- 6.1 **Breach by PSB.** In the event that the PSB shall fail to fully and timely perform any of its obligations under this Agreement, or shall fail to consummate the sale of the Property for any reason, except the Buyer's default, Buyer may, as Buyer's sole and exclusive remedy therefor, either (i) declare this Agreement terminated, in which event the Earnest Money shall be returned to Buyer, and thereafter neither Seller nor Buyer shall have any further duties or obligations to the other hereunder other than those which expressly survive the termination hereof, or (ii) enforce specific performance of this Agreement, provided, however, that the remedy of specific performance shall not be available in the event that the City Council has failed to pass an Ordinance authorizing the sale of the Property.
- 6.2 **Breach by the Buyer.** In the event that the Buyer shall fail to fully and timely perform any of its obligations under this Agreement, or shall fail to consummate the sale of the Property for any reason, except the PSB's default, PSB shall, as PSB's sole remedy, be entitled to terminate this Agreement and receive the Earnest Money as liquidated damages; it being specifically agreed between PSB and Buyer that PSB's actual damages in the event of such failure would be impossible to ascertain and the Earnest Money is a reasonable estimate of the same.

7. **Miscellaneous.**

- 7.1 **Notice.** Any notice, demand, direction, request, or other instrument authorized or required by this Agreement to be given to or filed with either party, shall be deemed to have been sufficiently given or filed for all purposes, if and when personally delivered or sent by certified mail, postage prepaid, return receipt requested, to the address specified below or at such other address as may be designated in writing by the parties:

PSB: Marcela Navarrete
 Vice President
 El Paso Water Utilities Public Service Board
 1154 Hawkins Blvd.
 El Paso, Texas 79925

Buyer: Rose Rock/Partners Fourth Quarter Capital II, LLC
 Jeffrey W. Brown, CFO
 318 North Bryan Avenue
 Bryan, Texas 77803

8. **Entire Agreement / Governing Law.** This Agreement constitutes the entire agreement between the parties, and supersedes all prior agreements and understandings, written or oral, regarding the subject matter of this Agreement, and may be amended or supplemented only by an instrument in writing, executed by the party against whom enforcement is sought. This Agreement shall be governed in all respects, including validity, interpretation and effect, by and shall be enforceable in accordance with the laws of the State of Texas with jurisdiction in courts of competent jurisdiction of El Paso County, Texas.
- 8.1 **Time.** Time is of the essence of this Agreement and each and every provision hereof.
- 8.2 **Severability.** If any provision of this Agreement shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining portion shall not in any way be affected or impaired.
- 8.3 **Survival of Provisions.** The terms contained in this Agreement, including without limitation, representations, warranties, covenants and agreements of the parties, shall survive the Closing and shall not be merged therein. In case any one or more of the provisions contained in this contract for any reason is held invalid, this invalidity will not affect any other provision of this Agreement, which will be construed as if the invalid or unenforceable provision had never existed.
- 8.4 **Binding Effect.** This Agreement shall be binding upon the parties hereto and their respective successors and assigns.
- 8.5 **Compliance.** In accordance with the requirements of the Property Code, Title 2, Chapter 5, Subchapter D, Buyer is hereby advised that it should obtain a title abstract or title commitment covering the Property and have it examined by an attorney of its own selection and purchase owner's policy of title insurance covering the Property.
- 8.6 **Effective Date.** As used herein, "Effective Date" shall mean the date of the approval of City Council of an Ordinance authorizing the City Manager to sign all documents necessary for the sale of the Property.
- 8.7 **Assignment.** Buyer shall have the right to assign this Agreement or any of its rights hereunder with the prior written consent of Seller, which consent shall not be unreasonable withheld or delayed; provided, however, (i) such assignee shall assume all of the obligations of Buyer hereunder, (ii) Buyer shall remain liable for all of its duties and obligations hereunder, and (iii) Buyer shall deliver written notice of the assignment, including a copy of the assignment instrument, to Seller at least three (3) days prior to the Closing Date. No consent to an assignment shall be required in connection with an assignment to an entity, a majority of which is owned by Buyer, or is under common ownership with Buyer, or to a limited partnership or limited liability company of which Buyer or an affiliate of Buyer is the general partner or managing member.

The above instrument, together with all conditions thereto is hereby executed by the City of El Paso on the Effective Date.

SELLER:

EL PASO WATER UTILITIES
PUBLIC SERVICE BOARD

By: Marcela Navarrete
Marcela Navarrete
Vice President

Executed on: _____

APPROVED AS TO CONTENT:

Cynthia Osborn
Cynthia Osborn
Real Estate Manager and Counsel

ACKNOWLEDGMENT

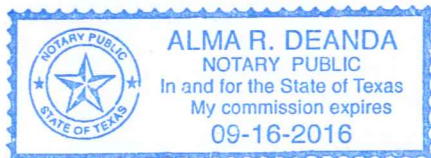
STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on the 22nd day of Dec., 2015, by Marcela Navarrete, Vice President of El Paso Water Utilities Public Service Board.

My Commission Expires:

Sept. 16, 2016

Alma R. Deanda
Notary Public, State of Texas



(Additional Signatures on Following Page)

SELLER:

CITY OF EL PASO
A Municipal Corporation

By: _____
Tomás Gonzalez, City Manager

Executed on: _____

APPROVED AS TO FORM:

Theresa Cullen
Deputy City Attorney

ACKNOWLEDGMENT

STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on the _____ day of _____,
2015, by Tomás Gonzalez, City Manager of the City of El Paso.

My Commission Expires:

Notary Public, State of Texas

(Additional Signatures on Following Page)

BUYER:

ROSE ROCK/PARTNERS
FOURTH QUARTER CAPITAL II, LLC

By: *Jeffrey W. Brown*

Jeffrey W. Brown, CFO

Executed on: *12/18/15*

ACKNOWLEDGMENT

STATE OF TEXAS)

COUNTY OF *brazos*)

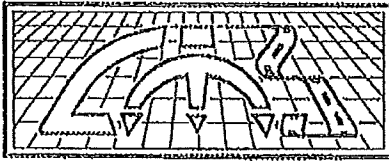
This instrument was acknowledged before me on the *18th* day of *December*, 2015, by Jeffrey W. Brown, CFO of Rose Rock/Partners Fourth Quarter Capital II, LLC.

My Commission Expires:

May 30, 2017

Amy E. Bradley
Notary Public, State of Texas





Land - Mark Professional Surveying Inc.

"Serving Texas, New Mexico and Arizona"

EXHIBIT "A"

PAGE 1 OF 2

METES AND BOUNDS DESCRIPTION

A PORTION OF TRACTS 7A, AND 8C, BLOCK 55, YSLETA GRANT, EL PASO COUNTY, TEXAS, BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING, for reference, at an existing Texas Department of Transportation Brass Cap Right of Way Monument located at the point of intersection of the southerly right of way line of Interstate Highway 10 and the easterly right of way line of Zaragosa Road, for a corner of this parcel and the **POINT OF BEGINNING** for the following parcel description;

THENCE, South $41^{\circ}31'00''$ East with said southerly right of way line of Interstate Highway 10, a distance of 465.91 feet to a 5/8" rebar with cap stamped "LAND-MARK TX 5710", set at the point for the common corner of Tract 8C and Tract 9 of said Block 55, Ysleta Grant, for a corner of this parcel;

THENCE, departing said southerly right of way line of Interstate Highway 10, South $15^{\circ}57'00''$ West with the common boundary line of said Tracts 8C and 9, a distance of 542.15 feet to a 5/8" rebar with cap stamped "LAND-MARK TX5710", set in the northwesterly right of way line of the Bluff Channel for a corner of this parcel;

THENCE, departing said common boundary line, South $49^{\circ}38'48''$ West with said northwesterly right of way line of said Bluff Channel, a distance of 229.67 feet to an existing 5/8" rebar with cap stamped "LAND-MARK TX5710" for a corner of this parcel;

THENCE, continuing with the northeasterly right of way line of said Bluff Channel, North $48^{\circ}23'17''$ West, a distance of 538.92 feet to an existing 5/8" rebar with cap stamped "TX2449", lying in the easterly right of way line of said Zaragosa Road for a corner of this parcel;

THENCE, with said easterly right of way line, North $32^{\circ}19'00''$ East a distance of 782.10 feet to the **TRUE POINT OF BEGINNING**.

Said parcel contains 9.240 Acres (402,487 Sq. Ft.) more or less.

**LAND-MARK PROFESSIONAL
SURVEYING, INC.**


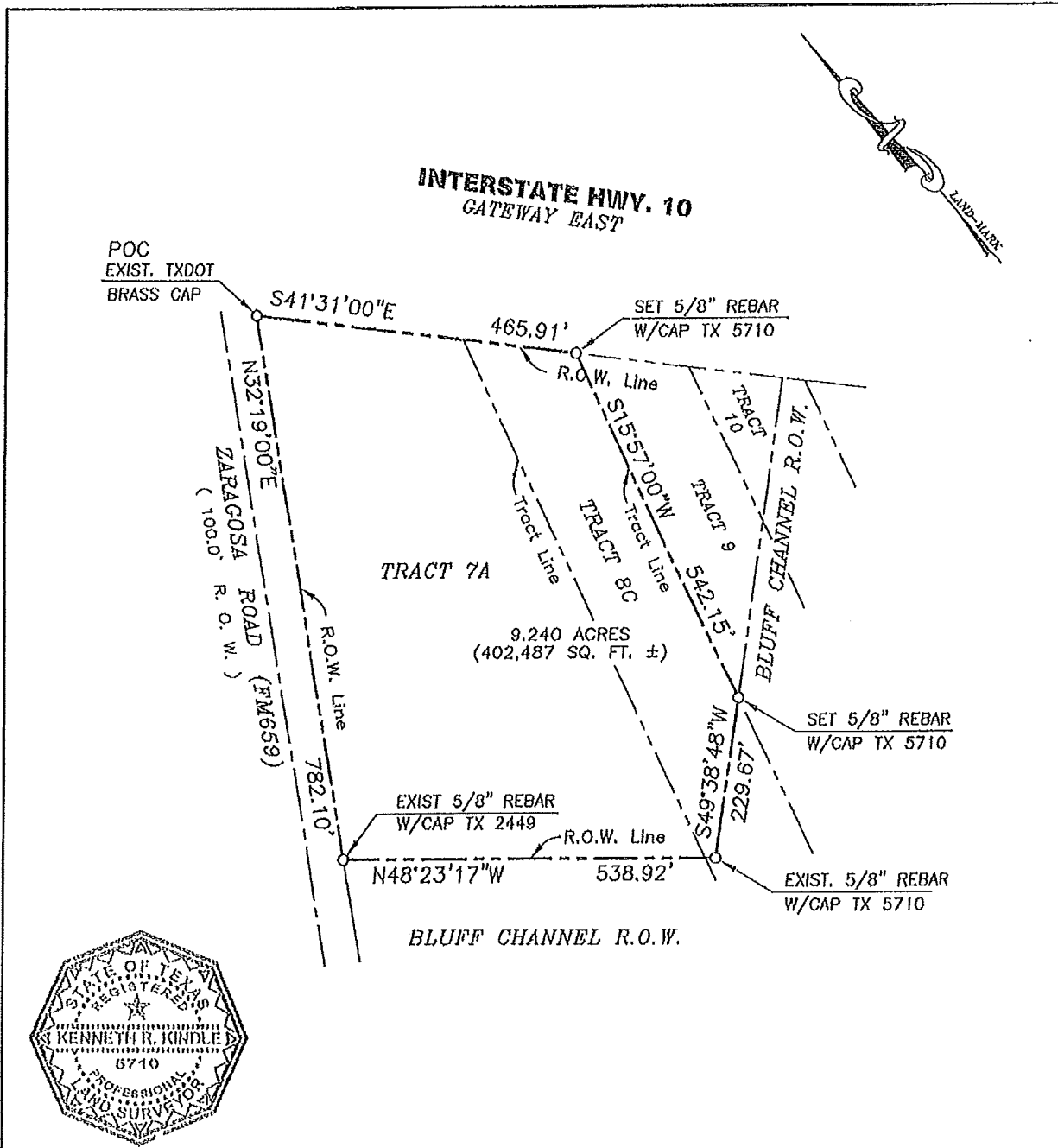

Kenneth R. Kindle, R.P.L.S.
Texas Reg. No. 5710
Job # 13-02-29118
Date: April 19, 2013.



EXHIBIT "A"
PAGE 2 OF 2

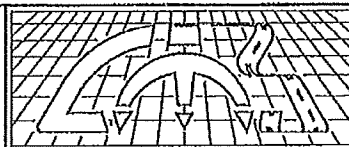


I hereby certify that the foregoing boundary and improvement survey was made by me or under my supervision and substantially complies with the current Texas Society of Professional Surveyors minimum Standards and Specifications.

Kenneth R. Kindle
Kenneth R. Kindle, R.P.L.S.
Texas 5710

Plat of Survey

A PORTION OF TRACTS
7A, AND 8C, BLOCK 55,
YSLETA GRANT,
CITY OF EL PASO,
EL PASO COUNTY, TEXAS.

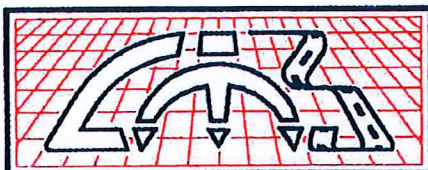


Land-Mark Professional
Surveying, Inc.
1420 Bassemmer Drive, Suite 'A'
El Paso, Texas 79936
(915) 598-1300
email: Bob@Land-marksurvey.com
"Serving Texas, New Mexico
and Arizona"

Job No. 13-02-29118

Scale: 1" = 20'

Date: April 19, 2013



Land - Mark Professional Surveying Inc.

"Serving Texas, New Mexico and Arizona"

EXHIBIT "B"

PAGE 1 OF 4

METES AND BOUNDS DESCRIPTION **20' WIDE PERMANENT UTILITY EASEMENT**

A PORTION OF TRACTS 7A, AND 8C, BLOCK 55, YSLETA GRANT, EL PASO COUNTY, TEXAS, BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING, at an existing Texas Department of Transportation Brass Cap Right of Way Monument located at the point of intersection of the Southerly right-of-way line of Interstate Highway 10 and the Easterly right-of-way line of Zaragosa Road (FM659), for a corner of this parcel and the **POINT OF BEGINNING** of this parcel description;

THENCE, South $41^{\circ}31'00''$ East, with said Southerly right-of-way line of Interstate Highway 10, a distance of 465.91 feet to an existing 5/8" rebar with cap stamped "Land-Mark TX5710" at the common Northerly corner of said Tract 8C and Tract 9 of said Block 55, Ysleta Grant, and a corner of this parcel;

THENCE, South $15^{\circ}57'00''$ West, departing said Southerly right-of-way line of Interstate Highway 10 and with the common boundary line of said Tracts 8C and 9, a distance of 23.72 feet to a point for a corner of this parcel;

THENCE, North $41^{\circ}31'00''$ West, departing said common boundary line, a distance of 452.05 feet to a point, for a corner of this parcel;


THENCE, South $32^{\circ}19'00''$ West, a distance of 758.75 feet to a point lying in common boundary line of Tract 7A and Northerly right-of-way line of the Bluff Channel, for a corner of this parcel;

THENCE, North $48^{\circ}23'17''$ West, with said common boundary line of Tract 7A and Northerly right-of-way line of the Bluff Channel, a distance of 20.27 feet, to an existing 5/8" rebar with cap stamped "TX2449" lying in the Easterly right-of-way line of Zaragosa Road (FM659), for a corner of this parcel;

THENCE, North $32^{\circ}19'00''$ East, departing said common boundary line of Tract 7A and said Northerly right-of-way line of the Bluff Channel and continuing with said Easterly right-of-way line of Zaragosa Road (FM659), a distance of 782.10 feet to the **POINT OF BEGINNING**.

Said parcel contains 0.5645 Acres (24,588 Sq. Ft.) more or less.

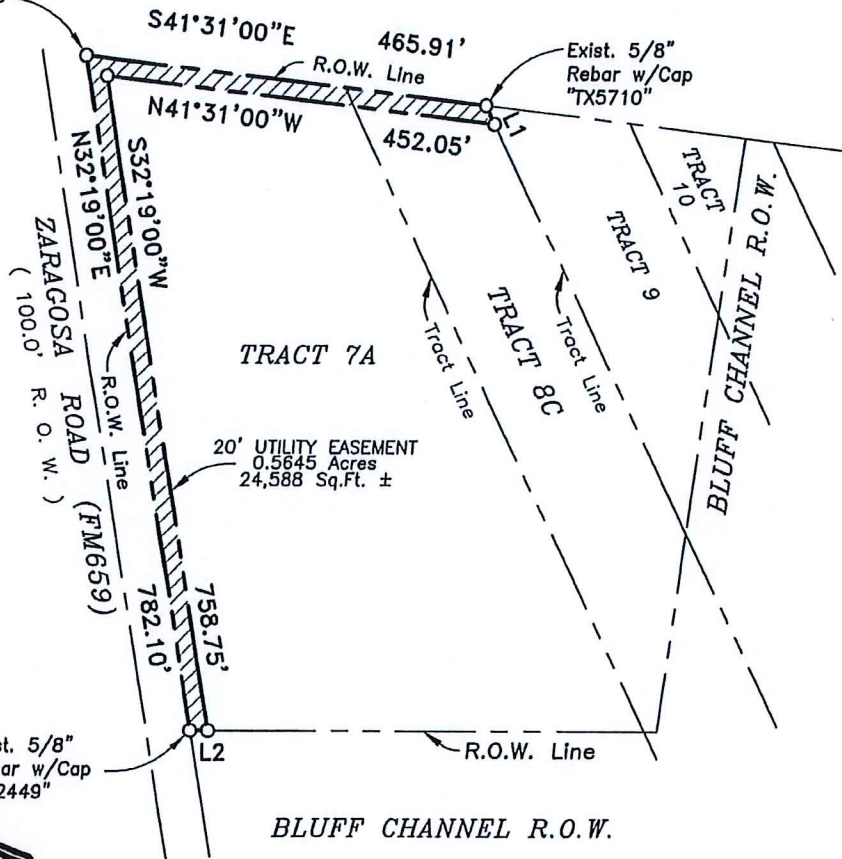
**LAND-MARK PROFESSIONAL
SURVEYING, INC.**


Kenneth R. Kindle, R.P.L.S.
Texas Reg. No. 5710
Job # 15-03-30098
Date: October 8, 2015



INTERSTATE HWY. 10 GATEWAY EAST

P.O.B.
Exist. TXDOT
Brass Cap



BLUFF CHANNEL R.O.W.

EXHIBIT "B"
PAGE 2 OF 4

LINE	DIRECTION	DISTANCE
L1	S15°57'00"W	23.72'
L2	N48°23'17"W	20.27'

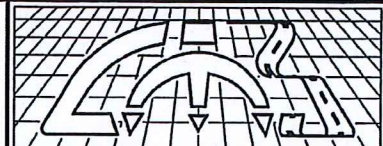
I hereby certify that the foregoing boundary survey was made by me or under my supervision and substantially complies with the current Texas Society of Professional Surveyors minimum Standards and Specifications.

Kenneth R. Kindle
Kenneth R. Kindle, R.P.L.S.
Texas 5710

Plat of Survey

20' PERMANENT UTILITY EASEMENT

A PORTION OF TRACTS
7A, AND 8C, BLOCK 55,
YSLETA GRANT,
CITY OF EL PASO,
EL PASO COUNTY, TEXAS.



**Land-Mark Professional
Surveying, Inc.**

1420 Bessemer Drive, Suite 'A'
El Paso, Texas 79936

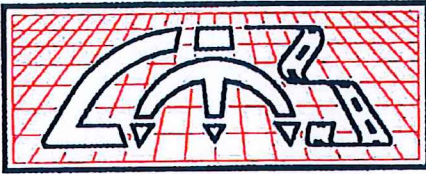
(915) 598-1300

email: Bob@Land-marksurvey.com
"Serving Texas, New Mexico
and Arizona"

Job No. 15-02-30098

Scale: 1" = 200'

Date: October 8, 2015



Land - Mark Professional Surveying Inc.

"Serving Texas, New Mexico and Arizona"

EXHIBIT "B"

PAGE 3 OF 4

METES AND BOUNDS DESCRIPTION **20' WIDE TEMPORARY CONSTRUCTION EASEMENT**

A PORTION OF TRACTS 7A, AND 8C, BLOCK 55, YSLETA GRANT, EL PASO COUNTY, TEXAS, BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING, for reference, from an existing Texas Department of Transportation Brass Cap Right of Way Monument located at the point of intersection of the Southerly right-of-way line of Interstate Highway 10 and the Easterly right-of-way line of Zaragosa Road (FM659); **THENCE**, South $41^{\circ}31'00''$ East, with said Southerly right-of-way line of Interstate Highway 10, a distance of 465.91 feet to an existing 5/8" rebar with cap stamped "Land-Mark TX5710" lying at the common Northerly corner of said Tract 8C and Tract 9, of said Block 55, Ysleta Grant; **THENCE**, South $15^{\circ}57'00''$ West, departing said Southerly right-of-way line of Interstate Highway 10 and with the common boundary line of said Tracts 8C and 9, a distance of 23.72 feet to a point, for a corner of this parcel and the **POINT OF BEGINNING** of this parcel description;

THENCE, South $15^{\circ}57'00''$ West, continuing with said common boundary line of said Tracts 8C and 9, a distance of 23.72 feet to a point, for a corner of this parcel;

THENCE, North $41^{\circ}31'00''$ West, departing said common boundary line, a distance of 438.18 feet to a point, for a corner of this parcel;

THENCE, South $32^{\circ}19'00''$ West, a distance of 735.41 feet to a point lying in common boundary line of Tract 7A and the Northerly right-of-way line of the Bluff Channel, for a corner of this parcel;


THENCE, North $48^{\circ}23'17''$ West, with said common boundary line of Tract 7A and the Northerly right-of-way line of the Bluff Channel, a distance of 20.27 feet to a point, for a corner of this parcel;

THENCE, North $32^{\circ}19'00''$ East, departing said common boundary line of Tract 7A and said Northerly right-of-way line of the Bluff Channel, a distance of 758.75 feet to a point, for a corner of this parcel;

THENCE, South $41^{\circ}31'00''$ East, a distance of 452.05 feet to the **POINT OF BEGINNING**.

Said parcel contains 0.5474 Acres (23,844 Sq. Ft.) more or less.

**LAND-MARK PROFESSIONAL
SURVEYING, INC.**


Kenneth R. Kindle, R.P.L.S.
Texas Reg. No. 5710
Job # 15-03-30098
Date: October 8, 2015



INTERSTATE HWY. 10 GATEWAY EAST

P.O.C.
Exist. TXDOT
Brass Cap

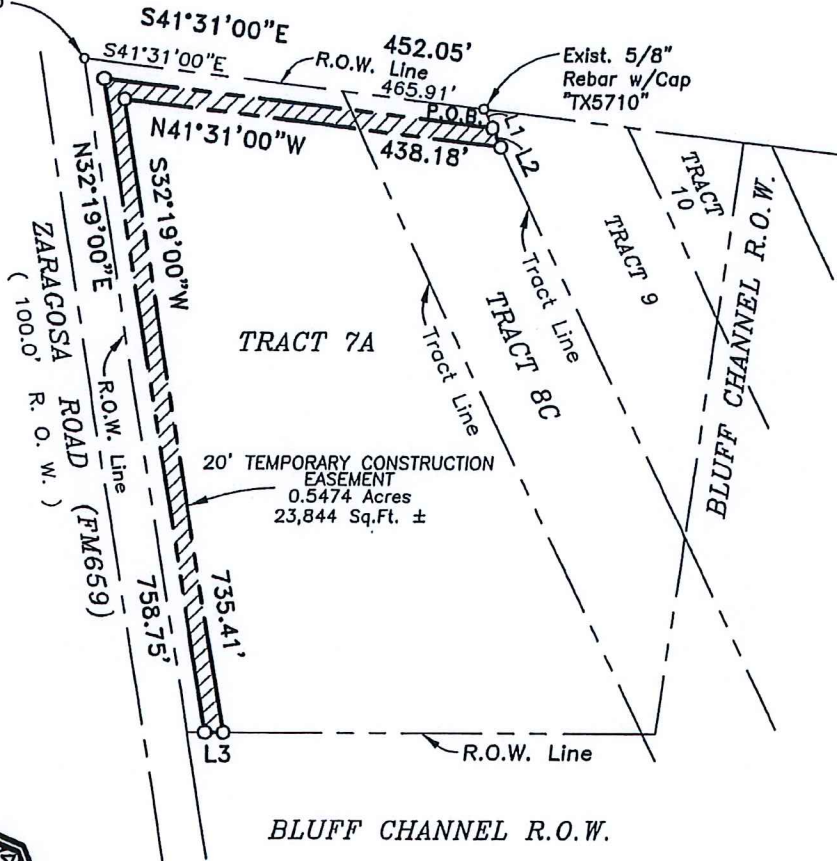


EXHIBIT "B"
PAGE 4 OF 4

LINE	DIRECTION	DISTANCE
L1	S15°57'00"W	23.72'
L2	S15°57'00"W	23.72'
L3	N48°23'17"W	20.27'

I hereby certify that the foregoing boundary survey was made by me or under my supervision and substantially complies with the current Texas Society of Professional Surveyors minimum Standards and Specifications.

Kenneth R. Kindle, R.P.L.S.
Texas 5710

Plat of Survey 20' TEMPORARY CONSTRUCTION EASEMENT

A PORTION OF TRACTS
7A, AND 8C, BLOCK 55,
YSLETA GRANT,
CITY OF EL PASO,
EL PASO COUNTY, TEXAS.



Land-Mark Professional
Surveying, Inc.

1420 Bessemer Drive, Suite 'A'
El Paso, Texas 79936

(915) 598-1300

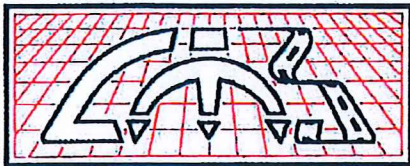
email: Bob@Land-marksurvey.com

"Serving Texas, New Mexico
and Arizona"

Job No. 15-02-30098

Scale: 1" = 200'

Date: October 8, 2015



Land - Mark Professional Surveying Inc.

"Serving Texas, New Mexico and Arizona"

EXHIBIT "C"

PAGE 1 OF 2

METES AND BOUNDS DESCRIPTION **30' WIDE ROADWAY EASEMENT**

A PORTION OF TRACTS 7A, AND 8C, BLOCK 55, YSLETA GRANT, EL PASO COUNTY, TEXAS, BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING, for reference, at an existing Texas Department of Transportation Brass Cap Right of Way Monument located at the point of intersection of the Southerly right-of-way line of Interstate Highway 10 and the Easterly right-of-way line of Zaragosa Road, **THENCE**, South 32°19'00" West, with said Easterly right-of-way line of Zaragosa Road, a distance of 751.70 feet to point for a corner of this parcel and the **POINT OF BEGINNING** for the following parcel description;

THENCE, South 48°23'17" East, departing said Easterly right-of-way line of Zaragosa Road, a distance of 548.06 feet to a point in the Northwestern right-of-way line of the Bluff Channel for a corner of this parcel;

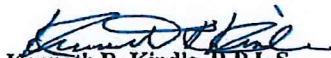
THENCE, South 49°38'48" West, with said Northwestern right-of-way line of said Bluff Channel, a distance of 30.30 feet to an existing 5/8" rebar with cap stamped "LAND-MARK TX5710" for a corner of this parcel;

THENCE, continuing with the Northeasterly right-of-way line of said Bluff Channel, North 48°23'17" West, a distance of 538.92 feet to an existing 5/8" rebar with cap stamped "TX2449", lying in the Easterly right-of-way line of said Zaragosa Road for a corner of this parcel;

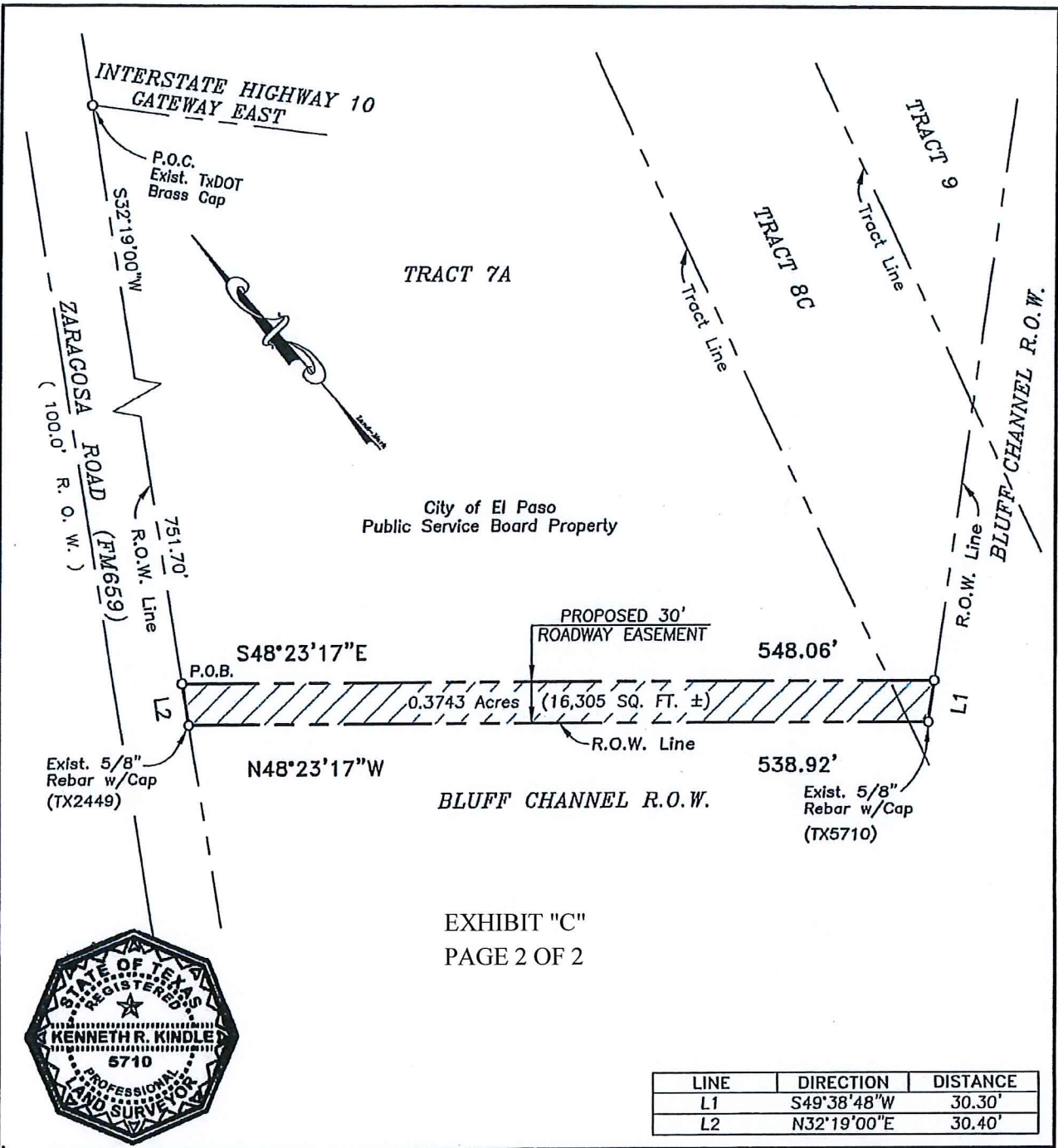
THENCE, with said Easterly right-of-way line, North 32°19'00" East a distance of 30.40 feet to the **POINT OF BEGINNING**.

Said parcel contains 0.3743 Acres (16,305 Sq. Ft.) more or less.

**LAND-MARK PROFESSIONAL
SURVEYING, INC.**


Kenneth R. Kindle, R.P.L.S.
Texas Reg. No. 5710
Job # 15-03-30058
Date: August 10, 2015





LINE	DIRECTION	DISTANCE
L1	S49°38'48"W	30.30'
L2	N32°19'00"E	30.40'

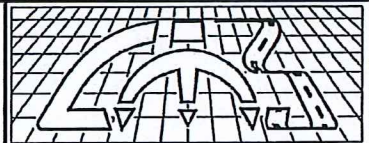
I hereby certify that the foregoing boundary survey was made by me or under my supervision and substantially complies with the current Texas Society of Professional Surveyors minimum Standards and Specifications.

Kenneth R. Kindle
Kenneth R. Kindle, R.P.L.S.
Texas 5710

Plat of Survey

PROPOSED 30' ROADWAY EASEMENT

A PORTION OF TRACTS
7A, AND 8C, BLOCK 55,
YSLETA GRANT,
CITY OF EL PASO,
EL PASO COUNTY, TEXAS.

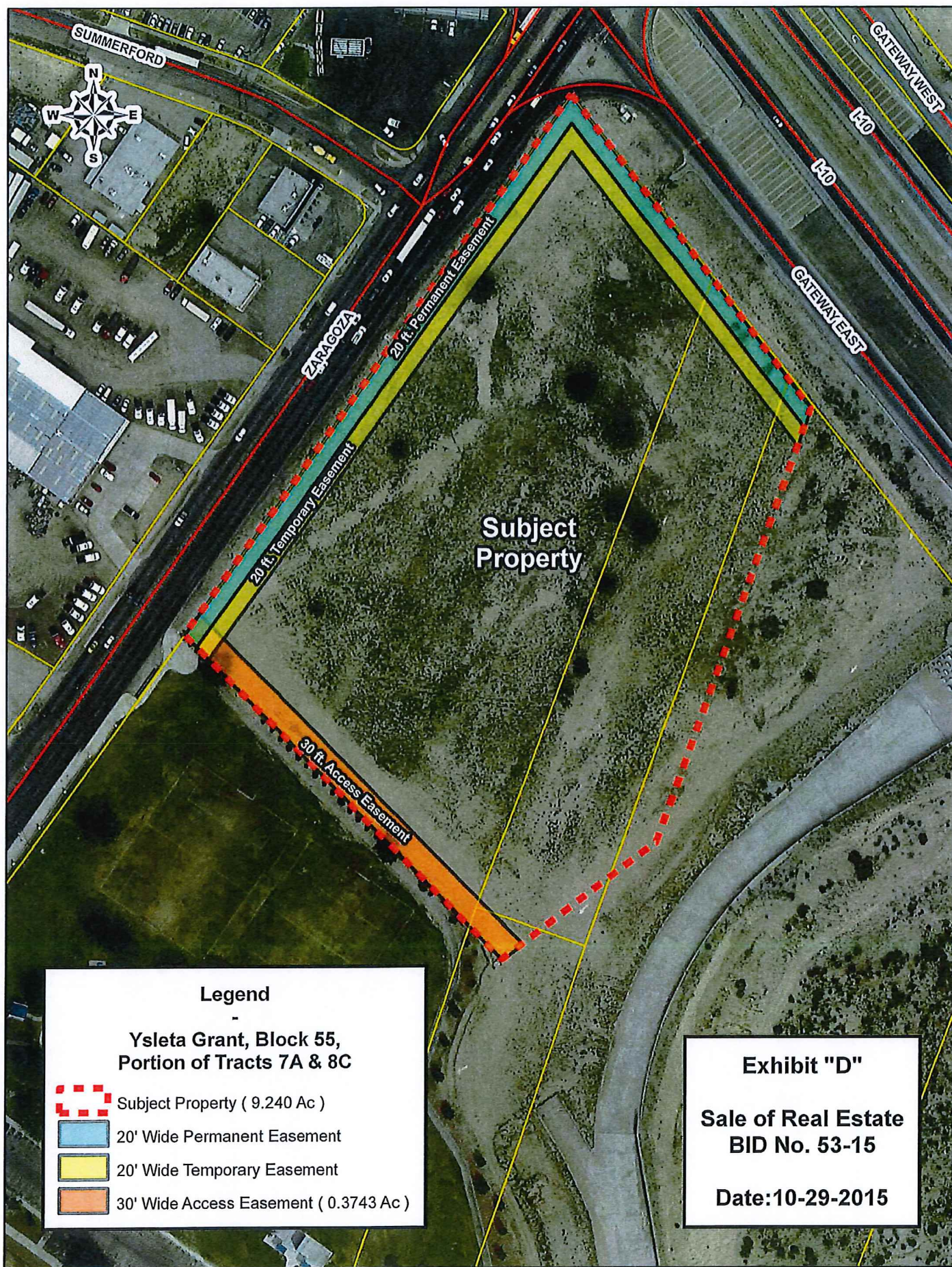


Land-Mark Professional
Surveying, Inc.
1420 Bessemer Drive, Suite 'A'
El Paso, Texas 79936
(915) 598-1300
email: Bob@Land-marksurvey.com
"Serving Texas, New Mexico
and Arizona"

Job No. 15-03-30058

Scale: 1" = 20'

Date: August 10, 2015



EL PASO WATER UTILITIES
PUBLIC SERVICE BOARD

EXHIBIT "E"

PORTION OF TRACTS 7A AND 8C, BLOCK 55,
YSLETA GRANT, CITY OF EL PASO,
EL PASO COUNTY, TEXAS

BID NUMBER:

53-15

TO BE OPENED:

Wednesday, September 30, 2015

11:00 A.M.

BIDDER'S PROPOSAL

TO: El Paso Water Utilities - Public Service Board
P.O. Box 511
El Paso, Texas 79961-0001

SUBJECT: Sale of Real Estate

We, the undersigned, offer to purchase the following described real estate in accordance with the enclosed General Conditions and Instructions to Bidders.

DESCRIPTION OF LAND

TOTAL AMOUNT BID

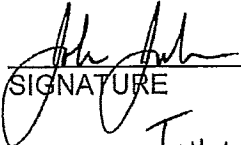
PORTION OF TRACTS 7A AND 8C, BLOCK 55,
YSLETA GRANT, CITY OF EL PASO,
EL PASO COUNTY, TEXAS
APPROXIMATELY (9.240 ACRES)

\$ 4,500,000

The attached metes and bounds description describes the gross acreage and location of the parcel. All bids must comply with the conditions set forth herein.

The **MINIMUM ACCEPTABLE BID** for land is **\$4,025,000.00.** In addition, the successful bidder must pay all proportional costs of title insurance, advertising, appraisals, and surveys at closing.

ROSE ROCK / PARTNER'S Fourth Quarter Capital II, LLC
FIRM


SIGNATURE

John Toroman
PRINTED NAME

318 North Bryan Avenue Bryan, TX 77803
MAILING ADDRESS

979-823-8525 / 979-823-8521
TELEPHONE NUMBER / FAX

CELL PHONE 979-574-9227

**EL PASO WATER UTILITIES
PURCHASING DEPARTMENT
P.O. BOX 511
EL PASO, TEXAS 79961**

SALE OF REAL ESTATE – Approximately 9.240 Acres

BID NUMBER 53-15

ADDENDUM NUMBER 1

September 28, 2015

Attention of all bidders is directed to the following addendum to this Bid Proposal:

A. Response(s) to Bidder's question(s):

- Question: City Planning meeting comments for the zoning case of this property

Answer: Please see attached.

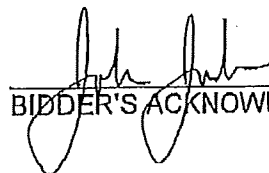
- Question: Who Should I contact at TxDOT regarding what type of access will be allowed by TxDOT to the property on Gateway East and / or Zaragoza?

Answer: Margarita Montes (915) 790-4270 – Margareta.Montes@txdot.gov

Bidder shall acknowledge receipt of this addendum and submit this acknowledgment with their bid submittal. Failure to acknowledge addendum(s), may result in rejection of bid.



Rosemary Guevara
Sr. Purchasing Agent



BIDDER'S ACKNOWLEDGEMENT OF RECEIPT

- Rose Rock / Partners Farrah Quinn Capital, LLC

9-29-15

1ST MOTION:

***ACTION:** Motion made by Commissioner Erickson, seconded by Commissioner Ardovino, and unanimously carried to **HEAR ITEMS 8 AND 13 TOGETHER.**

Motion passed.

Art Rubio, Lead Planner, gave a presentation and noted that Items 8 and 13 are related. The first request is for rezoning application PZRZ14-00038 and related special permit applicant PZST14-00027. The applicant is requesting to rezone the subject property from A-2 (Apartment) to C-1 (Commercial). The special permit is to allow for a parking lot supporting an adjacent commercial lot. Access to the subject property is proposed from Montana Avenue and Rio Grande Avenue. Staff did not receive any adverse comments from any of the reviewing departments. Staff received some emails in objection to the uses of C-1, primarily for liquor uses. Staff recommends approval of the rezoning and the special permit.

Conrad Conde with Conde, Inc., concurred with staff's comments regarding the rezoning and special permit requests. He asked the commission to allow for a condition to be placed on the zoning request to prohibit alcoholic uses.

Commissioner Wright asked if there was anyone in the public who wished to speak in favor or against this request.

- Robert Hoover noted that he spoke with Mr. Conde, prior to the meeting, and St. Clements has any objections.

2ND MOTION:

ACTION: Motion made by Commissioner Ardovino, seconded by Commissioner Brannon, and unanimously carried to **APPROVE PZRZ14-00038 WITH THE CONDITION THAT ALCOHOLIC USES BE PROHIBITED.**

Motion passed.

9. **PZRZ14-00042:** Portions of Tracts 7A, 8C, 9, and 10, Block 55, Ysleta Grant Surveys, City of El Paso, El Paso County, Texas
Location: South of Gateway East and East of Zaragoza Road
Zoning: R-F (Ranch and Farm)
Request: From R-F (Ranch and Farm) to C-3 (Commercial)
Existing Use: Vacant
Proposed Use: Commercial Development
Property Owner: City of El Paso/EPWU-PSB
Representatives: Lupe Cuellar/Rudy Valdez
District: 7
Staff Contact: Arturo Rubio, (915) 212-1613, rubioax@elpasotexas.gov

***ACTION:** Motion made by Commissioner Erickson, seconded by Commissioner Ardovino, and unanimously carried to **POSTPONE PZRZ14-00042 FOR TWO (2) WEEKS, TO THE CITY PLAN COMMISSION MEETING OF MARCH 12, 2015.**

Motion passed.

Commissioner Wright asked if there was anyone in the public who wished to speak in favor or against this request. There was no response.

ACTION: Motion made by Commissioner Landeros, seconded by Commissioner Amoriello, and unanimously carried to **APPROVE SUSU15-00009**.

Motion passed.

5. **SUSU15-00011:** Miles Unit One Replat A – A replat of Lots 1, 2, and 4, Block 1, Miles Subdivision Unit One, City of El Paso, El Paso County, Texas
- Location: South of Americas and West of Socorro
- Property Owner: Southwest Convenience Store
- Representative: Conde, Inc.
- District: 6
- Staff Contact: Alfredo Austin, (915) 212-1604, austinaj@elpasotexas.gov

***ACTION:** Motion made by Commissioner Amoriello, seconded by Commissioner Erickson, and unanimously carried to **POSTPONE SUSU15-00011 FOR TWO (2) WEEKS, TO THE CITY PLAN COMMISSION MEETING OF MARCH 26, 2015**.

Motion passed.

PUBLIC HEARING Easement Vacation:

6. **SUET15-00001:** 25 Apache Crest Easement Vacation - Lot 5, Block 1, Sierra Crest Replat "B", an addition to the City of El Paso, El Paso County, Texas
- Location: North of Robinson & East of Okeefe
- Property Owner: Douglas Chan
- Representative: Blanca Ramos
- District: 1
- Staff Contact: Alfredo Austin, (915) 212-1604, austinaj@elpasotexas.gov

***ACTION:** Motion made by Commissioner Amoriello, seconded by Commissioner Erickson, and unanimously carried to **POSTPONE SUET15-00001 FOR TWO (2) WEEKS, TO THE CITY PLAN COMMISSION MEETING OF MARCH 26, 2015**.

Motion passed.

PUBLIC HEARING Rezoning Applications:

7. **PZRZ14-00042:** Portions of Tracts 7A, 8C, 9, and 10, Block 55, Ysleta Grant Surveys, City of El Paso, El Paso County, Texas
- Location: South of Gateway East and East of Zaragoza Road
- Zoning: R-F (Ranch and Farm)
- Request: From R-F (Ranch and Farm) to C-3 (Commercial)
- Existing Use: Vacant
- Proposed Use: Commercial Development
- Property Owner: City of El Paso/EPWU-PSB
- Representatives: Lupe Cuellar/Alma De Anda
- District: 6

Staff Contact: Arturo Rubio, (915) 212-1613, rubioax@elpasotexas.gov
~~POSTPONED FROM 02/26/15~~

8. **PZRZ14-00043:** Portions of Tracts 10, 11, 12, 13, 14B, 15B, and 16, Block 55, Ysleta Grant Surveys, City of El Paso, El Paso County, Texas
- Location: South of Gateway East and East of Zaragoza Road
- Zoning: R-F (Ranch and Farm)
- Request: From R-F (Ranch and Farm) to C-3 (Commercial)
- Existing Use: Vacant
- Proposed Use: Commercial Development
- Property Owner: City of El Paso/EPWU-PSB
- Representatives: Lupe Cuellar/Alma De Anda
- District: 6
- Staff Contact: Arturo Rubio, (915) 212-1613, rubioax@elpasotexas.gov
~~POSTPONED FROM 02/26/15~~

1ST MOTION:

***ACTION:** Motion made by Commissioner Amoriello, seconded by Commissioner Erickson, and unanimously carried to **HEAR ITEMS 7 (PZRZ14-00042) AND 8 (PZRZ14-00043) TOGETHER.**

Motion passed.

Art Rubio, Lead Planner, gave a presentation and noted that these two applications are related. The applicant is requesting to rezone the subject properties from R-F (Ranch and Farm) to C-3 (Commercial). The request is to allow for commercial development not permitted in the R-F (Ranch and Farm) district. The first subject property is 9.24 acres in size and is currently vacant and the second one is 31.9 acres in size and is also currently vacant. The conceptual plan shows an open lot for commercial development that will utilize the close proximity to a major arterial and freeway to provide for a wide range of types of commercial activity to surrounding community areas. Access to the subject properties is proposed from Zaragoza and Gateway East. Currently, the Plan El Paso does call for O-1 preserved, however, the properties are owned by PSB. There is an amendment to the comp plan to address the general land use. Staff did not receive any adverse comments from any of the reviewing departments or any comments from the public in support or opposition to these requests. Staff recommends approval of rezoning the subject properties from R-F (Ranch and Farm) to C-3 (Commercial) with condition number two, stated in the staff report, with revision. Since the landscaping requirements already require 15% of the entire lot, the first condition was removed.

Lupe Cuellar with EPWU concurred with staff's comments including the revisions read into the record and noted that as far as there were normal conditions concerning a C-3 development, she had no objection.

Karla Nieman, Assistant City Attorney, noted that the commission's review of the detailed site plan would have to comply with the requirements of the underlined zoning. She noted that if the commission is going to recommend approval of this rezoning that it be contingent on the request that the future land use map be amended prior to the rezoning being approved at council.

Commissioner Wright asked if there was anyone in the public who wished to speak in favor or against this request. There was no response.

2ND MOTION:

***ACTION:** Motion made by Commissioner Landeros, seconded by Commissioner Amoriello and carried to **APPROVE THE REZONING WITH STAFF'S RECOMMENDATION WITH A REVISED CONDITION ON ITEM #7 AND AN ADDITIONAL CONDITION ON ITEM 8.**

AYES: Commissioner Loweree, Wright, Amoriello, and Landeros
NAYS: Commissioner Erickson
ABSENT: Commissioner Brannon, Grambling, Ardovino, and Madrid

Motion passed. (4-1 vote)

9. **PZRZ14-00051:** A portion of Lots 17 through 23, and all of Lots 90 and 91 and a portion of Lot 92 and a portion of a vacated alley, Block 8, Second Revised Map of Sunset Heights, City of El Paso, El Paso County, Texas
- Location: 406 W. Yandell Drive
Zoning: A-4/sp (Apartment/special permit)
Request: From A-4/sp (Apartment/special permit) to S-D (Special-Development)
Existing Use: Vacant
Proposed Use: Office/Retail
Property Owners: Yandell Tower & Horizon Properties, LLC
Representative: Conde, Inc.
District: 8
Staff Contact: Arturo Rubio, (915) 212-1613, rubioax@elpasotexas.gov
POSTPONED FROM 02/26/15

***ACTION:** Motion made by Commissioner Amoriello, seconded by Commissioner Erickson, and unanimously carried to **POSTPONE PZRZ14-00051 FOR TWO (2) WEEKS, TO THE CITY PLAN COMMISSION MEETING OF MARCH 26, 2015.**

Motion passed.

10. **PZRZ15-00001:** Tracts 4A and 4C, Block 33, Ysleta Grant, City of El Paso, El Paso County, Texas
- Location: 8235 Carpenter Drive
Zoning: R-4 (Residential)
Request: From R-4 (Residential) to A-2 (Apartment)
Existing Use: Vacant
Proposed Use: Apartments
Property Owner: Daniel Alderete
Representative: Daniel Alderete
District: 7
Staff Contact: Michael McElroy, (915) 212-1612, mcelroyms@elpasotexas.gov

Michael McElroy, Planner, gave a presentation and noted that there is a revised staff report. The property owner is requesting to rezone from R-4 (Residential) to A-2 (Apartment) to permit the construction of an 8 two-bedroom unit apartment complex totaling 2,912 square feet. The property is currently vacant. Sixteen parking spaces are required and 16 are proposed, to include ADA and bicycle parking. The proposed development requires 2,682 square feet of landscaping and proposes 2,908 square feet. Furthermore, the development complies with the 50 percent open space requirement for the A-2 (Apartment) zoning district, proposing 10,827 square feet of non-hardscape area. Access is proposed from Carpenter Drive. There were no adverse comments from any of the reviewing departments. Staff did receive two letters in opposition to the rezoning request. Staff recommends approval of rezoning the subject property from R-4 (Residential) to A-2 (Apartment). The proposed zoning district is consistent with other apartment zoning districts in immediate proximity to the subject property. Furthermore, the proposed development is compliant with the G-3 Post-War land use designation in the Mission Valley Planning Area.

**CITY OF EL PASO
EL PASO WATER UTILITIES
PUBLIC SERVICE BOARD**

SALE OF REAL ESTATE

**GENERAL CONDITIONS AND
INSTRUCTIONS TO BIDDERS**

**BID NUMBER
53-15**

Sealed bids addressed to John E. Balliew, P.E., President/CEO, El Paso Water Utilities for the sale of property described as portion of Tracts 7A and 8C, Block 55, Ysleta Grant, City of El Paso, El Paso County, Texas, totaling approximately **9.240 acres** of real estate, as shown on the attached Exhibit "A", will be received in the office of the El Paso Water Utilities, located at 1154 Hawkins Boulevard, El Paso, Texas 79925 until **11:00 A.M.**, local time, **Wednesday, September 30, 2015**, publicly opened and read aloud in the 4th floor conference room of the El Paso Water Utilities.

BID PROCEDURES

1. Bids must be made on the attached Bidder's Proposal. An original copy must be received in the El Paso Water Utilities' Purchasing Department by **11:00 A.M.**, local time, **Wednesday, September 30, 2015**, by either mailing to El Paso Water Utilities, P.O. Box 511, El Paso, Texas 79961-0001 or by hand delivery to the purchasing agent on the 1st floor of the El Paso Water Utilities' Administration building at 1154 Hawkins Boulevard, El Paso, Texas. The Bidder is responsible for delivery of the bid by the above listed time. All bids shall be in a sealed envelope that is clearly marked with the Bid Number on the lower left hand corner of the outside of the envelope.
2. The bid will be awarded to the bidder submitting the highest bid that equals or exceeds the minimum acceptable price. All bids must comply with the conditions set forth herein.
3. Any bid received after the above listed time for receiving bids will be returned unopened.
4. Bidders are invited to be present at the opening of bids.
5. If the bid is made by an agent for a proposed purchaser, the signature of such agent shall be affixed to the Bidder's Proposal. In addition, the bid shall identify the proposed purchaser in whose name the title will be taken. **No agent or broker commission will be the responsibility or will be paid by the El Paso Water Utilities - Public Service Board.**

6. The El Paso Water Utilities - Public Service Board reserves the right to reject any or all bids or to award a contract either in whole or in part and to waive any minor irregularities, if it is deemed to be in the best interest of the El Paso Water Utilities - Public Service Board.
7. Each bidder **must include** a cashier's check, certified check or money order in the amount of five percent (5%) of the bid total as earnest money to ensure that the successful bidder will complete the purchase of the land. Such bid security must identify the bidder in whose name it is submitted. If the successful bidder fails to complete the purchase, said earnest money will be forfeited, and the El Paso Water Utilities - Public Service Board reserves the right to make the sale to the next highest responsible bidder or to reject all bids.
8. No bid may be withdrawn after the deadline for receipt of bids. The El Paso Water Utilities will retain the earnest money of the successful bidder and the earnest money will be applied to the purchase price of the successful bidder's land.
9. No oral, telephone, internet or telegraph bids will be accepted.
10. After award of the bid, all unsuccessful bidders will be notified in writing and their earnest monies will be refunded within 30 days of notice.
11. The **MINIMUM ACCEPTABLE BID for the land is \$4,025,000.00** . In addition, the successful bidder must pay all costs of title insurance, advertising, appraisal, and survey at closing.
12. The property must be purchased in cash at the time of closing. All closing costs, including title insurance, advertising, appraisal and survey fees must be paid by the successful bidder.
13. Within ten (10) days after receipt of written notification of acceptance of this bid, the successful bidder shall provide the El Paso Water Utilities - Public Service Board with all information necessary to close the sale and prepare the deed and other necessary papers. Unless good cause exists for further delay, it is contemplated that the sale will be closed within thirty days from the date of approval by the City Council of the City of El Paso of an ordinance authorizing the sale. The earnest money will be deposited in an interest bearing account after the date of award by the El Paso Water Utilities - Public Service Board with interest accruing to the El Paso Water Utilities - Public Service Board.
14. Conveyance of the property to the successful bidder shall be contingent upon passage of an ordinance by the El Paso City Council authorizing the Mayor or City Manager to execute a deed or deeds or other documents as needed, and acceptance of any conditions placed on the sale of the property by the El Paso City Council.
15. The successful bidder shall execute a real estate sales contract acceptable to the Real Estate Manager and Counsel within 15 days of award of the bid by the Public Service Board, which includes the conditions and instructions to bidders.

16. The conveyance of the subject real estate will be by Special Warranty Deed and will be subject to all easements, restrictions, reservations, rights of way, dedications, conditions, and other encumbrances, of record or apparent upon the property.
17. Questions concerning the bid package or bid procedure should be directed to the Purchasing Department of the El Paso Water Utilities - Public Service Board at 915/594-5625.
18. Technical questions concerning the bid package should be directed to the Real Estate Manager and Counsel of the El Paso Water Utilities – Public Service Board at 915/594-5636.

GENERAL DEVELOPMENT REQUIREMENTS

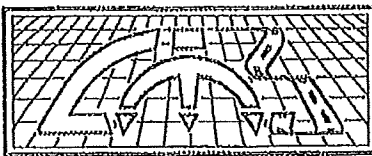
19. Any conveyance of this land will be subject to a restrictive covenant to the effect that the successful bidder, its successors or assigns will not, subject to existing law, discard, place or store upon such land, any radioactive material or other hazardous waste material or animal waste which would contaminate or otherwise damage the ground water supply sources of the City of El Paso.
20. This property is inside the city limits of El Paso. The design, location and construction of improvements shall be per City of El Paso Code requirements. Future development of this property must retain its developed runoff.
21. Re-zoning the property for uses other than those allowed in the current zoning category (C-3/Commercial) is the sole responsibility of the successful bidder after the transfer of title. Neither the City of El Paso, the Public Service Board or their agents or employees have made any representations regarding future land uses and zoning. Future zoning applications are subject to full review of City of El Paso staff, the City Plan Commission and the discretion and final approval of City Council.
22. The successful bidder accepts the responsibility for conducting its own archeological and environmental surveys of the property and contacting the Texas Historical Commission (THC) for any potential archeological information pertaining to the site. Mitigation of any conditions on the property, including archeological sites or, without limitations, adverse environmental conditions, shall be at the expense of the successful bidder who shall take the property subject to all existing conditions. The successful bidder accepts responsibility for its determination of the nature and extent of any archeological sites, or without limitations, any adverse environmental conditions by its complete inspection of the property.
23. The successful bidder shall be required to make use of Low Impact Development Practices for Stormwater Management (LID) standards. The low impact drainage standards for the development of the property shall be reviewed and approved by the City of El Paso. The LID standards shall promote the following measures:
 - Encourage drainage conservation measures.
 - Promote impact minimization techniques such as impervious surface reduction.
 - Provide for strategic runoff timing by slowing flow using the landscape.

- Use an array of integrated management practices to reduce and cleanse runoff.
 - Advocate pollution prevention measures to reduce the introduction of pollutants to the environment.
24. A wall consisting of rock and wrought iron, similar in design to the existing rock and wrought iron wall located in the adjacent park along Zaragoza, will be erected by the successful bidder where the property abuts the parkland area along the southerly lot boundary of the property.
25. The rock and wrought iron wall shall include a five-foot wide opening to allow for pedestrian access from the subject property to the adjacent park. The opening shall remain open and unobstructed in perpetuity. The opening shall be located directly across from the existing gate opening located on City park property, allowing for direct and unimpeded pedestrian access between the subject property and the adjacent park. The successful bidder shall coordinate with the City of El Paso on the exact placement of opening.
26. A traffic impact analysis will be required prior to the submittal of the subdivision application and funding for all mitigation measures to be paid at the time of plat recording. Any improvements identified in the traffic impact analysis will be completed and constructed prior to the issuance of a certificate of occupancy for any building.
27. Any development shall include a thirty (30) foot access easement running with the land, along the southern boundary of the subject property; from Zaragoza, through the subject property, to the 30 acre site immediately east of the subject property, reserving access to the 30 acre site in the event of future development of the 30 acre site, the access easement as more particularly described in Exhibit "B" and shown in Exhibit "C". No permanent structures, including buildings, will be permitted over the thirty (30) foot wide access easement.
28. The successful bidder agrees that he or she has examined the property and accepts the land "AS IS" including but not limited to the present zoning and surface conditions.

WATER AND SANITARY SEWER SERVICE REQUIREMENTS

29. All ground water, water rights, or rights to surface water shall be reserved to the El Paso Water Utilities - Public Service Board of the City of El Paso. The successful bidder shall not have the right to drill a well and produce therefrom any quantity of groundwater.
30. Water, and sanitary sewerage service will be provided in accordance with the most current Public Service Board Rules and Regulations of the El Paso Water Utilities at the time of application for service to the Developer Services Section of the El Paso Water Utilities.

31. The successful bidder shall be responsible for the costs of any necessary on-site & off-site extensions, relocations, replacements or adjustments of water, sanitary sewer and appurtenances necessitated by and attributable to the proposed subdivision improvement plans.
32. In order to promote water conservation, to ensure optimum water-use efficiency, and to prevent runoff into streets, it is the policy of the Public Service Board to require landscape and irrigation restrictions in the sales of undeveloped land. Development of the property will be governed by the El Paso Municipal Code Title 15 (Public Services), Chapter 12 (Water and Sewer System) and Chapter 13 (Water Conservation), including no more than 50% turf in landscapable area.
33. The successful bidder shall grant easements at no cost for water, and sewer facilities to the El Paso Water Utilities, City of El Paso, necessary to serve any and all of the parcels as shown on the attached Exhibit "A" or as requested by El Paso Water Utilities at the time of subdivision plat submittal by the successful bidder.
34. The successful bidder shall grant a twenty foot (20') wide permanent easement and a twenty foot (20') wide temporary easement parallel to Zaragoza and Gateway East for a proposed 20" water main, as shown on Exhibit "C". Official metes and bounds surveys describing the easements will be provided at closing.
35. Zaragoza Street and Gateway East Blvd. are Texas Department of Transportation (TXDOT) right of ways, therefore, all work within the right of way or work that impacts the Zaragoza right of way will require a permit from TXDOT. The successful bidder shall be responsible for obtaining the permits from TXDOT.
36. The successful bidder shall be responsible for the cost of sanitary sewer service to the property which will require the construction of an offsite main that will connect to an existing manhole located near or within the bluff channel.



Land - Mark Professional Surveying Inc.

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EXHIBIT "A"

PAGE 1 OF 2

METES AND BOUNDS DESCRIPTION

A PORTION OF TRACTS 7A, AND 8C, BLOCK 55, YSLETA GRANT, EL PASO COUNTY, TEXAS, BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING, for reference, at an existing Texas Department of Transportation Brass Cap Right of Way Monument located at the point of intersection of the southerly right of way line of Interstate Highway 10 and the easterly right of way line of Zaragosa Road, for a corner of this parcel and the **POINT OF BEGINNING** for the following parcel description;

THENCE, South $41^{\circ}31'00''$ East with said southerly right of way line of Interstate Highway 10, a distance of 465.91 feet to a 5/8" rebar with cap stamped "LAND-MARK TX 5710", set at the point for the common corner of Tract 8C and Tract 9 of said Block 55, Ysleta Grant, for a corner of this parcel;

THENCE, departing said southerly right of way line of Interstate Highway 10, South $15^{\circ}57'00''$ West with the common boundary line of said Tracts 8C and 9, a distance of 542.15 feet to a 5/8" rebar with cap stamped "LAND-MARK TX5710", set in the northwesterly right of way line of the Bluff Channel for a corner of this parcel;


THENCE, departing said common boundary line, South $49^{\circ}38'48''$ West with said northwesterly right of way line of said Bluff Channel, a distance of 229.67 feet to an existing 5/8" rebar with cap stamped "LAND-MARK TX5710" for a corner of this parcel;

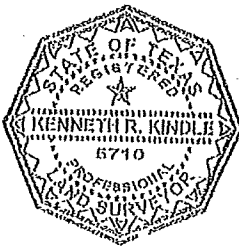
THENCE, continuing with the northeasterly right of way line of said Bluff Channel, North $48^{\circ}23'17''$ West, a distance of 538.92 feet to an existing 5/8" rebar with cap stamped "TX2449", lying in the easterly right of way line of said Zaragosa Road for a corner of this parcel;

THENCE, with said easterly right of way line, North $32^{\circ}19'00''$ East a distance of 782.10 feet to the **TRUE POINT OF BEGINNING**.

Said parcel contains 9.240 Acres (402,487 Sq. Ft.) more or less.

**LAND-MARK PROFESSIONAL
SURVEYING, INC.**

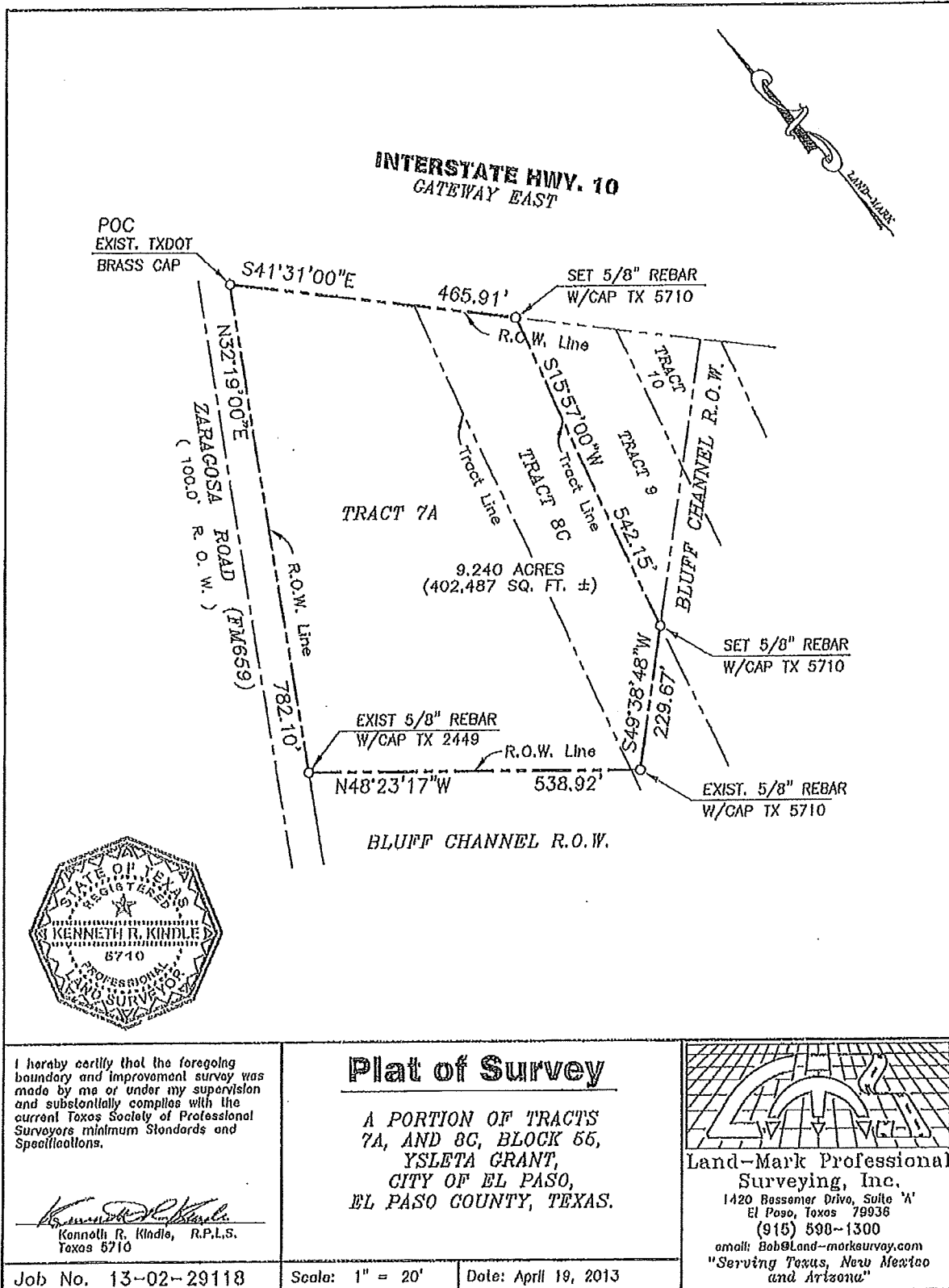

Kenneth R. Kindle, R.P.L.S.
Texas Reg. No. 5710
Job # 13-02-29118
Date: April 19, 2013.



1420 Bessemer • El Paso, Texas 79936

Tel. (915) 598-1300 • Fax (915) 598-1221 • E-mail address: Larry@Land-Marksurvey.com

EXHIBIT "A"
PAGE 2 OF 2





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EXHIBIT "B"

Page 1 of 2

METES AND BOUNDS DESCRIPTION **30' WIDE ROADWAY EASEMENT**

A PORTION OF TRACTS 7A, AND 8C, BLOCK 55, YSLETA GRANT, EL PASO COUNTY, TEXAS, BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING, for reference, at an existing Texas Department of Transportation Brass Cap Right of Way Monument located at the point of intersection of the Southerly right-of-way line of Interstate Highway 10 and the Easterly right-of-way line of Zaragosa Road, THENCE, South 32°19'00" West, with said Easterly right-of-way line of Zaragosa Road, a distance of 751.70 feet to point for a corner of this parcel and the **POINT OF BEGINNING** for the following parcel description;

THENCE, South 48°23'17" East, departing said Easterly right-of-way line of Zaragosa Road, a distance of 548.06 feet to a point in the Northwesterly right-of-way line of the Bluff Channel for a corner of this parcel;


THENCE, South 49°38'48" West, with said Northwesterly right-of-way line of said Bluff Channel, a distance of 30.30 feet to an existing 5/8" rebar with cap stamped "LAND-MARK TX5710" for a corner of this parcel;

THENCE, continuing with the Northeasterly right-of-way line of said Bluff Channel, North 48°23'17" West, a distance of 538.92 feet to an existing 5/8" rebar with cap stamped "TX2449", lying in the Easterly right-of-way line of said Zaragosa Road for a corner of this parcel;

THENCE, with said Easterly right-of-way line, North 32°19'00" East a distance of 30.40 feet to the **POINT OF BEGINNING**.

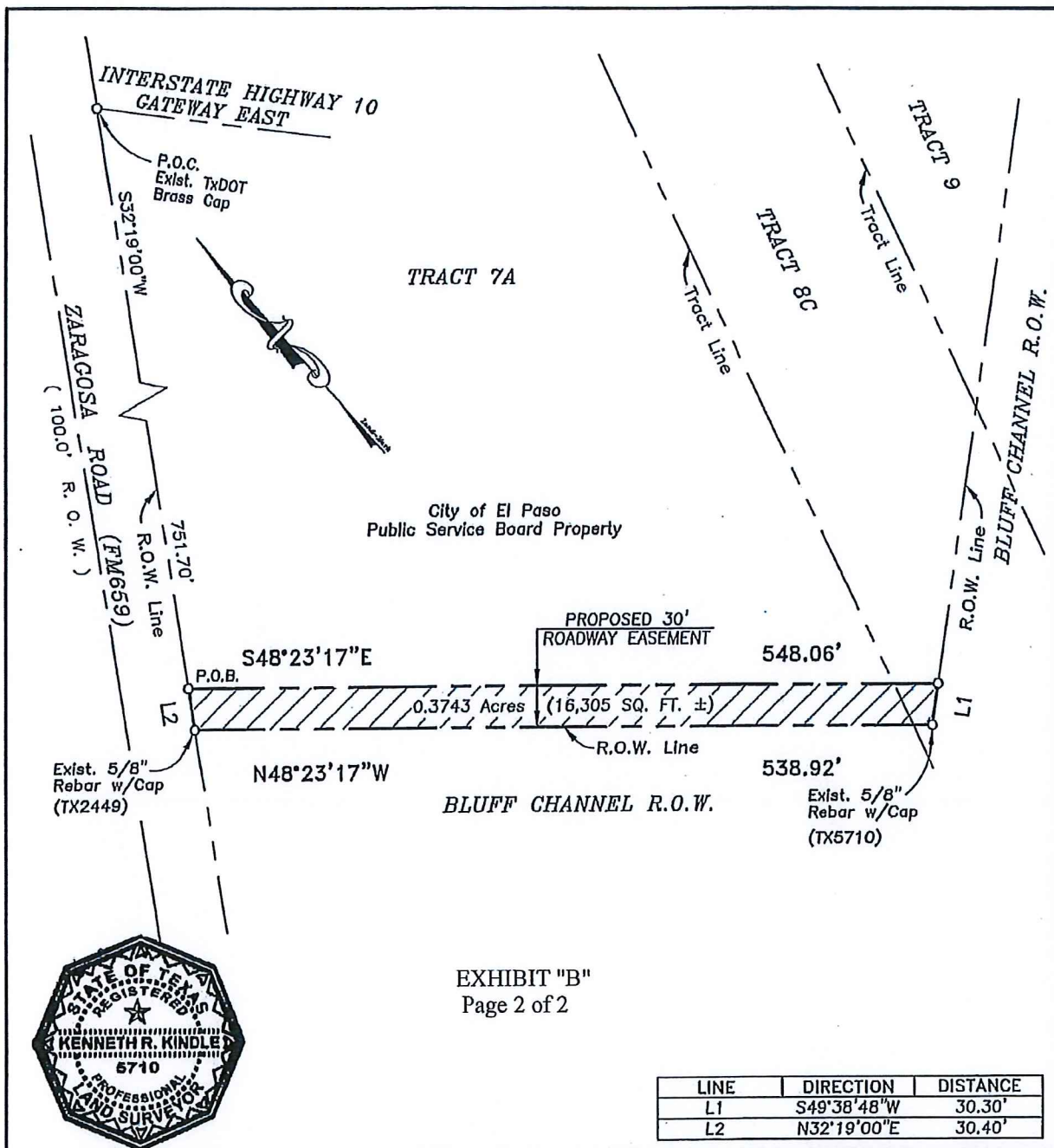
Said parcel contains 0.3743 Acres (16,305 Sq. Ft.) more or less.

**LAND-MARK PROFESSIONAL
SURVEYING, INC.**


Kenneth R. Kindle, R.P.L.S.
Texas Reg. No. 5710
Job # 15-03-30058
Date: August 10, 2015



1420 Bessemer • El Paso, Texas 79936
Tel. (915) 598-1300 • Fax (915) 598-1221 • E-mail address: Larry@Land-Marksurvey.com



LINE	DIRECTION	DISTANCE
L1	S49°38'48"W	30.30'
L2	N32°19'00"E	30.40'

I hereby certify that the foregoing boundary survey was made by me or under my supervision and substantially complies with the current Texas Society of Professional Surveyors minimum Standards and Specifications.

Kenneth R. Kindley
Kenneth R. Kindley, R.P.L.S.
Texas 5710

Plat of Survey

PROPOSED 30' ROADWAY EASEMENT

A PORTION OF TRACTS
7A, AND 8C, BLOCK 56,
YSLETA GRANT,
CITY OF EL PASO,
EL PASO COUNTY, TEXAS.

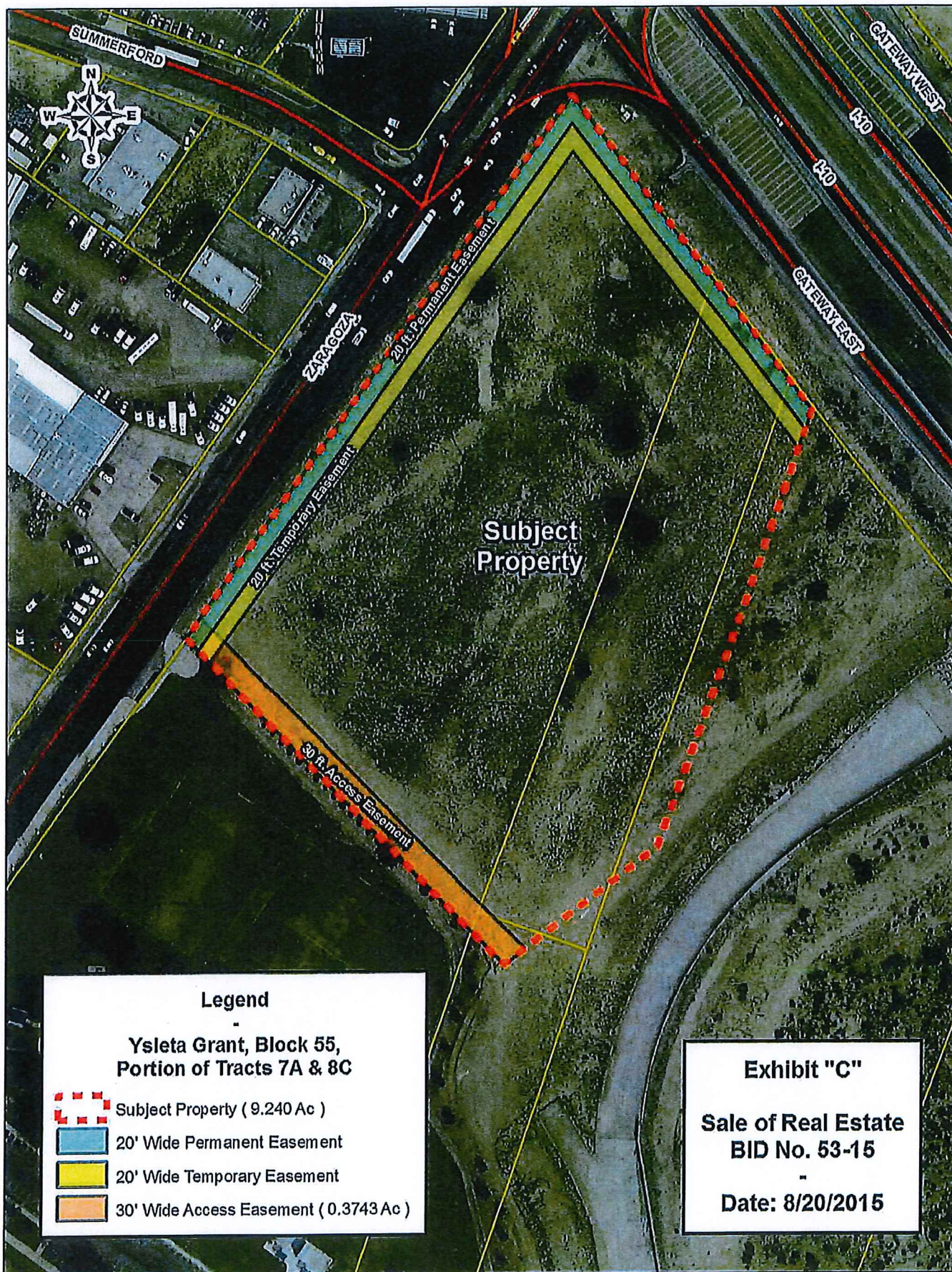


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and Arizona"

Job No. 15-03-30058

Scale: 1" = 20'

Date: August 10, 2015

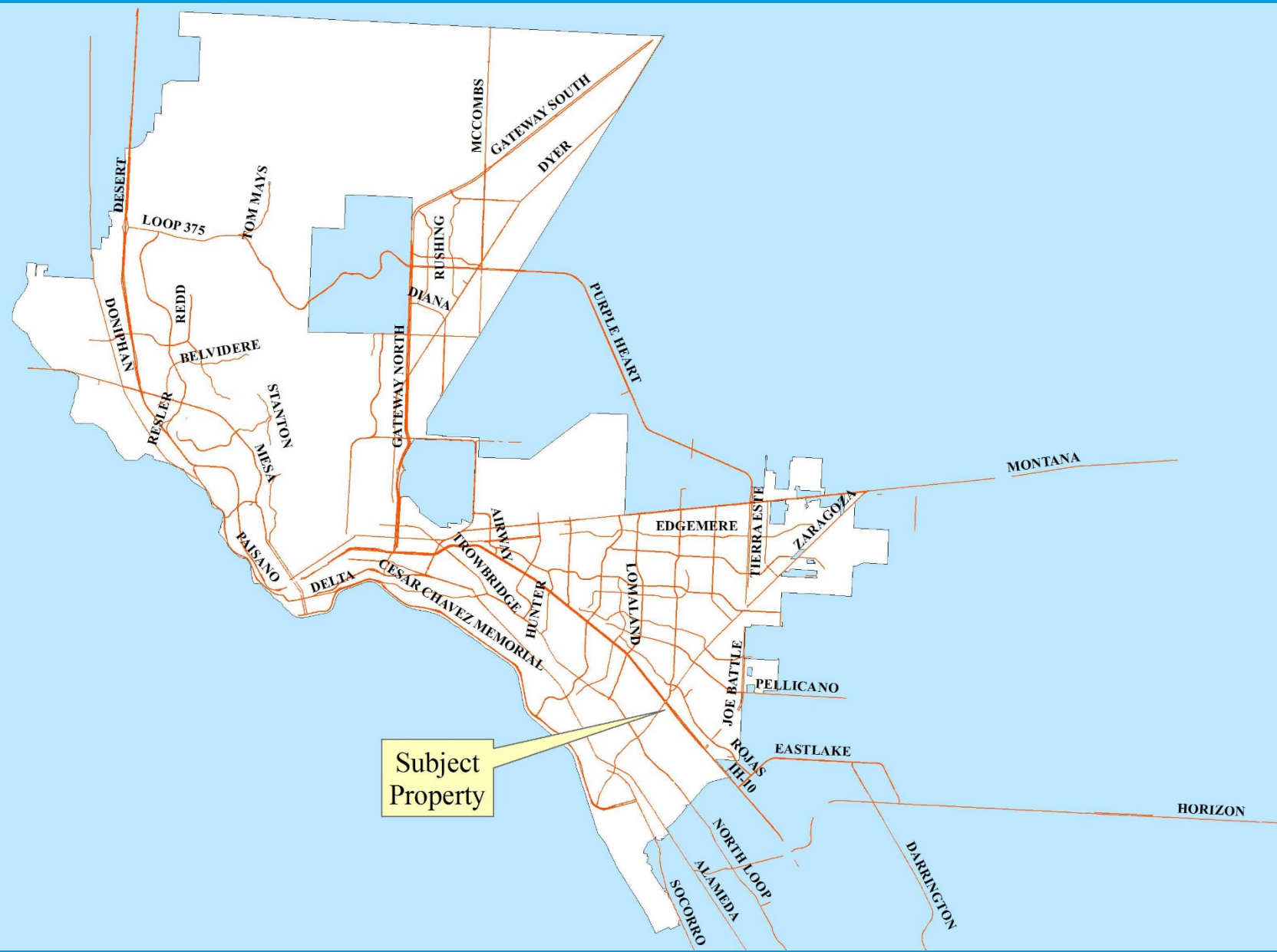


SALE OF EPWU MANAGED CITY PROPERTY TO ROSE ROCK/PARTNERS FOURTH QUARTER CAPITAL II, LLC

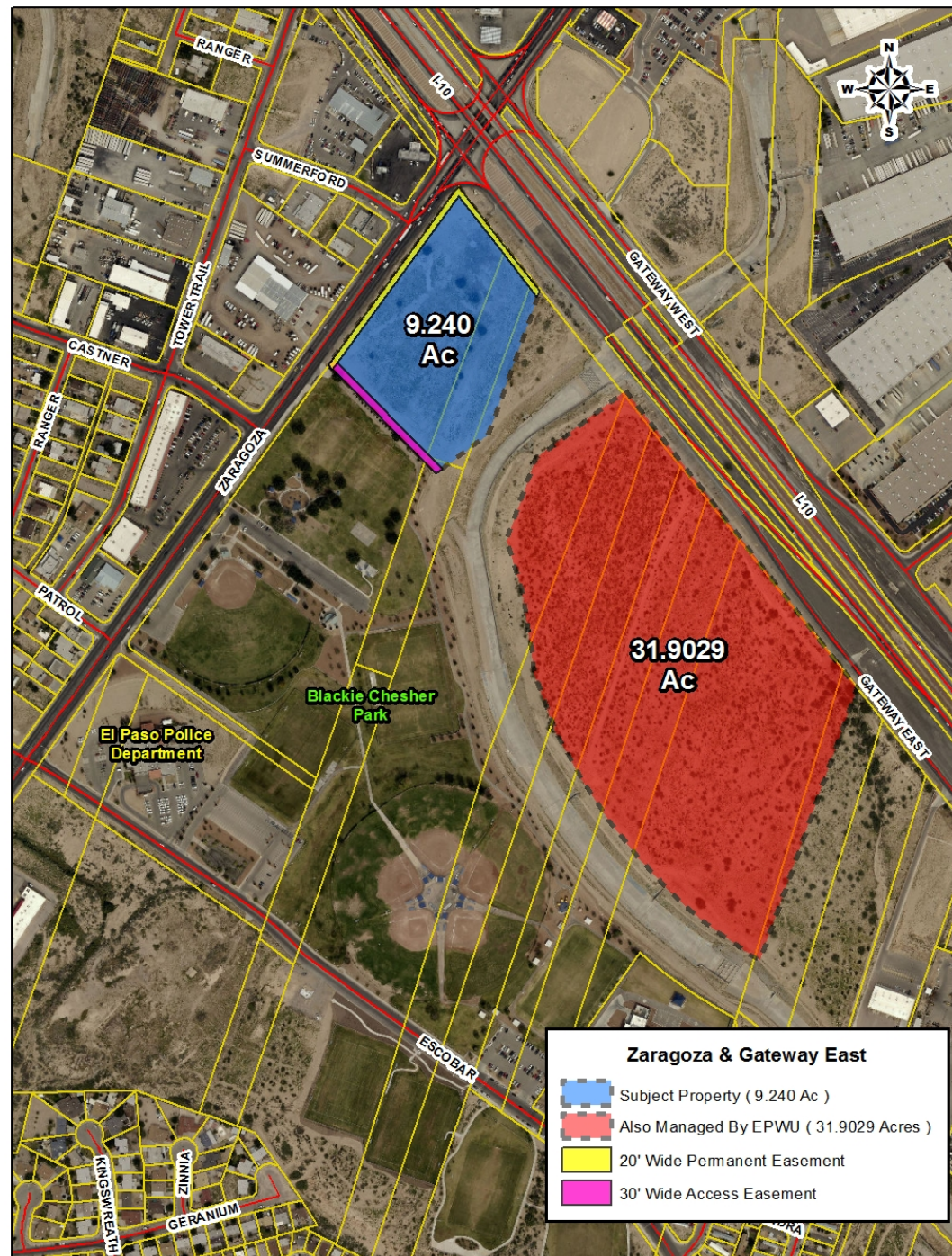
Zaragoza and I-10

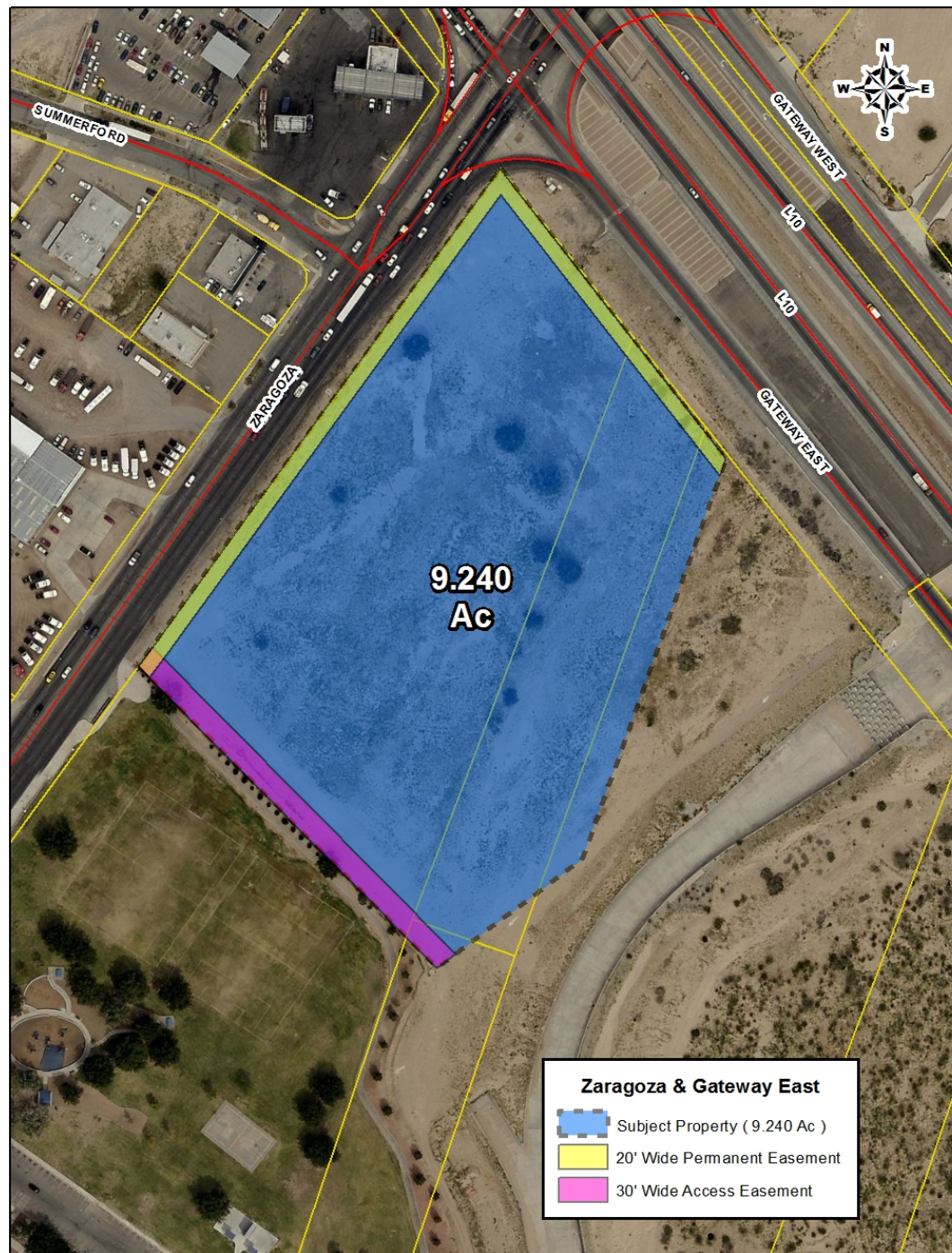
9.240 Acres





Subject
Property





CHRONOLOGY OF EVENTS

- July 2012 Request to purchase 9.2 acre parcel
- August 2012 PSB declared inexpedient to water system
- Sept 2012 – June 2013 Coordination with City staff
- June 2013 Publically bid, no bids received
- December 2014 Request to purchase 9.2 acre parcel
- February 2015 Beginning of lengthy rezoning process (both parcels) from R-F to C-3
- March 2015 Rezoning of both parcels approved by CPC
- June 2015 Rezoning of 9.2 acre parcel approved by City Council, 31.9 acre parcel deleted
- June 2015 – Aug 2015 Worked with City staff on bid conditions
- July 2015 Appraised for \$4,025,000
- September 2015 Publically bid, one bid received - \$4,500,000
- October 2015 Sale approved by PSB

BID CONDITIONS

- A rock and wrought iron wall, similar in design to the existing wall located in the adjacent park, shall be erected along the southerly boundary of the property where the property abuts the park.
- The rock and wrought iron wall shall include a five-foot wide opening to allow for pedestrian access from the property to the adjacent park.
- Opening shall remain open and unobstructed in perpetuity.
- Opening shall be located directly across from existing gate opening on City property, to allow for direct and unimpeded pedestrian access to adjacent park. Shall coordinate with City of El Paso on exact placement of wall opening.
- 30 foot access easement along southern boundary, from Zaragoza, through property, to the 31 acres site east of property (access for future development of 31 acre site)

RECOMMENDATION

Authorize the City Manager to sign a Contract of Sale and a Special Warranty Deed and any other documents necessary to convey to Rose Rock/Partners Fourth Quarter Capital II, LLC, a 9.240 acre parcel of land located at I-10 and Zaragoza, in the amount of \$4,500,000.