

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

DEPARTMENT: El Paso Water Utilities Public - Service Board (EPWater)

AGENDA DATE: Introduction - April 30, 2019
Public Hearing - May 14, 2019

CONTACT PERSON/PHONE: James Wolff, Sr. Land & Contract Administrator, 594-5511

DISTRICT(S) AFFECTED: District 4.

SUBJECT: APPROVE the following Ordinance

Authorizing the City Manager to sign a Contract of Sale with Northtowne Village Joint Venture for the sale of approximately 43.40 acres of land being in Section 31, Block 80, Township 1, Texas and Pacific Railway Surveys, City of El Paso, El Paso County, Texas. (District: 4) EPWater, James Wolff, Sr. Land & Contract Administrator. (915) 594-5511.

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 (EPWater). On June 8, 2016, the Public Service Board declared the property inexpedient to the water system and authorized the President/CEO of EPWater to obtain an appraisal of the property and thereafter to forward the recommendation to City Council for approval.

The property appraised by Martha Gayle Reid-Lynch for \$1,379,966.

Highest Responsive, Responsible Bid: \$2,175,000.

On February 13, 2019, the Public Service Board recommended that the property be conveyed to Northtowne Village Joint Venture in the amount of \$2,175,000 and authorized the President/CEO to sign any and all necessary documents and 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?

October 20, 2009, the City Council approved the sale of approximately 35 acres of land owned by the City of El Paso and managed by EPWater, to EP Plaza Partners for commercial and multi-family housing.

AMOUNT AND SOURCE OF FUNDING: N/A

BOARD / COMMISSION ACTION:

On June 8, 2016, 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 February 13, 2019, the El Paso Water Utilities - Public Service Board recommended that the property be sold to Northtowne Village Joint Venture and authorized the President/CEO to forward the recommendation to the El Paso City Council for approval.

AFTER EXECUTION OF ALL DOCUMENTS, PLEASE CONTACT JAMES WOLFF TO PICK UP THE DOCUMENTS. 594-5511. THANK YOU.

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO SIGN A CONTRACT OF SALE WITH NORTHTOWNE VILLAGE JOINT VENTURE FOR THE SALE OF 43.40 ACRES, MORE OR LESS, BEING A PORTION OF SECTION 31, BLOCK 80, TOWNSHIP 1, TEXAS AND PACIFIC RAILWAY SURVEYS, EL PASO COUNTY, TEXAS.

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

WHEREAS, at its regular meeting on June 8, 2016, the El Paso Water Utilities - Public Service Board (EPWU/PSB) determined 43.40 acres, more or less, being a portion of Section 31, Block 80, Township 1, Texas and Pacific Railway Surveys, City of El Paso, El Paso County, Texas, located in Northeast El Paso near McCombs Street, south of Sean Haggerty, north of Transmountain and east of Dyer, is inexpedient to the water system and authorized the President/CEO to have the land appraised, to solicit bids for the sale of the land and to forward a recommendation to the El Paso City Council for the sale of the identified property; and

WHEREAS, at its regular meeting on February 13, 2019, the (EPWU/PSB) voted to award the bid for the sale of the identified 43.40 acres parcel to Northtowne Village Joint Venture, the highest, responsive responsible bidder, for the bid amount of \$2,175,000.00, and adopted a Resolution making the findings set forth hereinabove and requested 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 Northtowne Village Joint Venture;

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, and any and all documents, in a form approved by the City Attorney's Office, for the sale of the following property to Northtowne Village Joint Venture:

43.40 acres more or less, being a portion of Section 31, Block 80, Township 1, Texas and Pacific Railway Surveys, City of El Paso, El Paso County, Texas and being more particularly described in Exhibit "A" attached hereto and made a part hereof for all purposes.

(Signatures begin on following page)

PASSED AND APPROVED this ____ day of _____, 2019.

CITY OF EL PASO

Dee Margo,
Mayor

ATTEST:

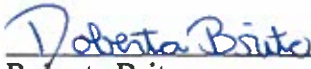
Laura D. Prine,
City Clerk

APPROVED AS TO CONTENT:



Alma De Anda
Utility Land and Water Rights Manager

APPROVED AS TO FORM:



Roberta Brito,
Assistant City Attorney

APPROVED AS TO FORM:



Lee Ann B. Koehler,
General Counsel

Exhibit A

Prepared For: El Paso Water
January 3, 2017

METES AND BOUNDS DESCRIPTION

Description of a parcel of land being a Portion of Section 31, Block 80, Township 1, Texas and Pacific Railway company Surveys, City of El Paso, El Paso County, Texas, and being more particularly described by metes and bounds as follows:

The "TRUE POINT OF BEGINNING" being a found chiseled x on the intersection of the westerly right of way line of Dyer Street (U.S. Highway No. 54) with the northerly line of that parcel of land being a portion of Lot 2, Block 1, Racket Warehouse Park Unit Three described in clerks file no. 20160033626, Real property records of El Paso county, Texas from which a chiseled "x" found in concrete on the intersection of the westerly right of way of Dyer St. with the common line of Sections 31 and 42, Block 80, Township 1, Texas and Pacific Railway company Surveys bears South 29°26'00" West a distance of 2799.33 feet;

Thence leaving the westerly right of way line of Dyer Street, North 90°00'00" West a distance of 2458.96 feet to a set 1/2" rebar with cap marked TX 5152 on the easterly line of drainage channel labeled "Parcel E" as described in Ordinance No. 2640, dated March 8, 1962;

Thence along said line, North 16°58'04" East a distance of 853.76 feet to a set 1/2" rebar with cap marked TX 5152 on the southerly line of drainage channel labeled "Parcel A" as described in Ordinance No. 2640, dated March 8, 1962;


Thence along said line, South 90°00'00" East a distance of 1093.37 feet to a point of curve;

Thence along said line, 1383.67 feet along the arc of a curve to the right which has a radius of 2693.54 feet, a central angle of 29°25'58", a chord which bears South 75°16'57" East a distance 1368.51 feet to a set 1/2" rebar with cap marked TX 5152;

Thence along said line, South 60°34'00" East a distance of 50.00 feet to a chiseled x in concrete on the westerly right of way line of Dyer Street (U.S. Highway No. 54);

Thence along said right of way line, South 29°26'00" West a distance of 510.19 feet to the "TRUE POINT OF BEGINNING" and containing 1,890,365 Square Feet or 43.40 Acres of land more or less.

Note: A drawing of even date accompanies this description.


Ron R. Conde
R.P.L.S. No. 5152



CONDE INC.
ENGINEERING / LAND SURVEYING / PLANNING
6080 SURETY DRIVE / SUITE 100 / EL PASO, TEXAS 79905 (915) 592-0283
FAX (915) 592-0286 FIRM NO. 10078100

RESOLUTION

A RESOLUTION OF THE EL PASO WATER UTILITIES PUBLIC SERVICE BOARD (EPWATER) TO RECOMMEND THE SALE OF APPROXIMATELY 43.40 ACRES OF LAND, LEGALLY DESCRIBED AS PORTION OF SECTION 31, BLOCK 80, TOWNSHIP 1, TEXAS AND PACIFIC RAILWAY SURVEYS, CITY OF EL PASO, EL PASO COUNTY, TEXAS, TO NORTHTOWNE VILLAGE JOINT VENTURE, THE HIGHEST RESPONSIVE, RESPONSIBLE BIDDER, AND AUTHORIZING THE PRESIDENT/CEO TO FORWARD THE RECOMMENDATION TO THE CITY AND SIGN ANY AND ALL DOCUMENTS NECESSARY TO COMPLETE THE SALE

WHEREAS, the El Paso Water Utilities Public Service Board holds certain real properties in its land inventory that are owned by the City, but are under the management and control of the El Paso Water Utilities Public Service Board; and,

WHEREAS, the El Paso Water Utilities Public Service Board determined approximately 43.40 acres of land located in Northeast El Paso, off Mc Combs Street, south of Sean Haggerty, north of Trans Mountain and east of Dyer Street, to be inexpedient to the water system and should be sold in accordance with state law;

NOW, THEREFORE, BE IT RESOLVED BY THE EL PASO WATER UTILITIES PUBLIC SERVICE BOARD OF THE CITY OF EL PASO, TEXAS:

Section 1. The recitations as set out in the preamble above are found to be true and correct, and are hereby adopted by the El Paso Water Utilities Public Service Board and made a part of this Resolution for all purposes.

Section 2. That the El Paso Water Utilities Public Service Board recommends that the land described below be sold to the highest responsive, responsible bidder, Northtowne Village Joint Venture, for a total bid amount for \$2,175,000.00.

Approximately 43.40 acres of land, legally described as a portion of Section 31, Block 80, Township 1, Texas and Pacific Railway Surveys, City of El Paso, El Paso County, Texas.

Section 3. That the El Paso Water Utilities Public Service Board authorize the President/CEO to forward the recommendation to the City and sign any and all documents necessary to complete the sale of the property to Northtowne Village Joint Venture.

PASSED, ADOPTED and APPROVED at a Regular Meeting of the El Paso Water Utilities Public Service Board of the City of El Paso, Texas, this 13th day of February, 2019, at which meeting a quorum was present and which meeting was held in accordance with the provisions of V.T.C.A. Government Code, Sections 551.001, et. seq.

EL PASO WATER UTILITIES
PUBLIC SERVICE BOARD



Christopher Antcliff, Chair

ATTEST:



Kristina Mena
Secretary-Treasurer

APPROVED AS TO FORM:



Lee Ann B. Koehler
General Counsel

SPECIAL WARRANTY DEED

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

Effective Date: _____, 2019

Grantor: **THE CITY OF EL PASO, TEXAS**, a Texas municipal corporation, for and on behalf of
EL PASO WATER UTILITIES – PUBLIC SERVICE BOARD
1154 Hawkins Blvd.
El Paso, Texas 79925

Grantee: **NORTHTOWNE VILLAGE JOINT VENTURE**,
a Texas limited partnership
4712 Woodrow Bean, Ste A
El Paso, Texas 79924

Consideration: TEN AND NO/100THS DOLLARS (\$10.00), and other good and valuable consideration to the undersigned paid by Grantee, the receipt of which is hereby acknowledged.

Property (including any improvements):

A 43.40 acre portion, more or less, out of Section 31, Block 80, Township 1, TEXAS AND PACIFIC RAILWAY COMPANY SURVEYS, in the City of El Paso, El Paso County, Texas, and being more particularly described by metes and bounds in **Exhibit A** attached hereto and made a part hereof for all purposes

Severance of Groundwater Estate and Reservations from Conveyance:

Save and except:

- (1) The groundwater estate related to the Property, which is hereby severed from the Property and reserved by and for Grantor, for all purposes. The groundwater estate shall include, without limitation, the Groundwater and Groundwater Rights related to the Property. The term (i) "Groundwater" shall mean all of the underground water, percolating water, artesian water, and any other water existing now and in the future from any and all depths, reservoirs, aquifers, formations, and horizons beneath the surface of the Property; and (ii) "Groundwater Rights" shall mean (1) the right to access, test, capture, explore for, drill for, develop, withdraw, produce, store, treat, transport or otherwise acquire and beneficially use, reuse, or recharge, any and all of the Groundwater beneath the Property; (2) the right to apply for and obtain all permits, licenses, or other governmental authorizations relating to any of the foregoing, including but not limited to any permit issued by a groundwater conservation district or other governmental entity existing now or in the future and having jurisdiction over the Groundwater and/or the exploration, drilling, production, use, storage, treatment, reuse, recharge or transport of Groundwater that are necessary for the Grantee to exercise the rights conveyed under this Special Warranty Deed; and

- (2) An approximately 150'-0" x 150'-0" parcel of land around Well #529 and a 50'-0" access road to Well #529 over the existing collector line running from Dyer Street toward Northeast Channel #2, as collectively described by metes and bounds on Exhibit B attached hereto and incorporated herein for all purposes.

Exceptions to Conveyance and Warranty:

1. Those certain Restrictive Covenants recorded in/under Volume 1176, Page 504, Real Property Records of El Paso County, Texas.
2. Any discrepancies, conflicts, or shortages in area or boundary lines, or any encroachments or protrusions, or any overlapping of improvements;
3. Standby fees, taxes and assessments by any taxing authority for the year 2019 and subsequent years, and subsequent taxes and assessments by any taxing authority for prior years due to change in land usage or ownership, which Grantee hereby assumes, subject to any proration thereof;
4. 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; and
5. All leases, grants, exceptions or reservations of coal, lignite, oil, gas and other minerals, together with all rights, privileges, and immunities relating thereto, appearing in the Public Records of El Paso County, Texas
6. Title to all oil, gas and minerals of every kind and character in, on and under the Property, together with all rights, privileges and immunities relating thereto, heretofore reserved or conveyed by predecessors in title to the City of El Paso in Volume 1176, Page 504; Volume 1212, Page 153 and Volume 1667, Page 261, Real Property Records, El Paso County, Texas.
7. Terms and conditions of that certain Ordinance No. 018849 designating a reinvestment zone recorded under Clerk's File No. 20180079665, Real Property Records El Paso County, Texas.
8. Easement to El Paso Electric Company under Clerk's File No. 20140031440, Real Property Records, El Paso County, Texas.
9. All easements, restrictions, reservations, rights of way, dedications, conditions, and other encumbrances, of record or apparent upon the Property.
10. All zoning laws, regulations and ordinances of municipal and/or other governmental authorities, if any, in effect and relating to the Property.

GRANTOR AND GRANTEE AGREE THAT GRANTEE IS ACCEPTING THE PROPERTY FROM GRANTOR IN ITS "AS IS, WHERE IS, AND WITH ALL FAULTS" CONDITION AND THAT THERE ARE NO REPRESENTATIONS OR EXPRESS OR IMPLIED WARRANTIES, EXCEPT THE SPECIAL WARRANTY OF TITLE CONTAINED IN THIS DEED. GRANTEE HAS NOT RELIED ON ANY INFORMATION OTHER THAN GRANTEE'S INSPECTION OF THE PROPERTY.

Grantor, subject to the Severance of the Groundwater Estate and Reservations from Conveyance and the Exceptions to Conveyance and Warranty set forth above, grants, sells and conveys to Grantee the Property, together with all and singular the rights and appurtenances thereto in any way belonging, to have and to hold the Property unto Grantee and Grantee's successors and assigns forever. Grantor binds Grantor and Grantor's successors and assigns to warrant and forever defend all and singular the Property unto Grantee and Grantee's successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof when the claim is by, through or under Grantor, but not otherwise, except as to the Severance of the Groundwater Estate and Reservations from Conveyance and the Exceptions to Conveyance and Warranty set forth above.

When the context requires, singular nouns and pronouns include the plural.

This Special Warranty Deed may be executed in multiple counterparts, each of which shall be deemed to be an original, and all of which, when taken together, shall constitute one and the same document.

(Signature page and exhibits follow.)

EXECUTED to be effective as of the date first stated above.

GRANTOR:

CITY OF EL PASO

By: _____

Name: Tomás González, City Manager

THE STATE OF TEXAS

§

COUNTY OF EL PASO

§

§

This instrument was acknowledged before me on the ____ day of _____, 2019, by **Tomás González, the City Manager of the City of El Paso, Texas.**

NOTARY PUBLIC, State of Texas

EXHIBIT A

METES AND BOUNDS DESCRIPTION

Description of a parcel of land being a Portion of Section 31, Block 80, Township 1, Texas and Pacific Railway company Surveys, City of El Paso, El Paso County, Texas, and being more particularly described by metes and bounds as follows:

The "TRUE POINT OF BEGINNING" being a found chiseled x on the intersection of the westerly right of way line of Dyer Street (U.S. Highway No. 54) with the northerly line of that parcel of land being a portion of Lot 2, Block 1, Rocket Warehouse Park Unit Three described in clerks file no. 20160033626, Real property records of El Paso county, Texas from which a chiseled "x" found in concrete on the intersection of the westerly right of way of Dyer St. with the common line of Sections 31 and 42, Block 80, Township 1, Texas and Pacific Railway company Surveys bears South 29°26'00" West a distance of 2799.33 feet;

Thence leaving the westerly right of way line of Dyer Street, North 90°00'00" West a distance of 2458.96 feet to a set ½" rebar with cap marked TX 5152 on the easterly line of drainage channel labeled "Parcel E" as described in Ordinance No. 2640, dated March 8, 1962;

Thence along said line, North 16°58'04" East a distance of 853.76 feet to a set ½" rebar with cap marked TX 5152 on the southerly line of drainage channel labeled "Parcel A" as described in Ordinance No. 2640, dated March 8, 1962;

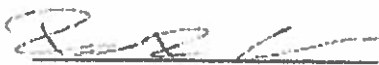
Thence along said line, South 90°00'00" East a distance of 1093.37 feet to a point of curve;

Thence along said line, 1383.67 feet along the arc of a curve to the right which has a radius of 2693.54 feet, a central angle of 29°25'58", a chord which bears South 75°16'57" East a distance 1368.51 feet to a set ½" rebar with cap marked TX 5152;

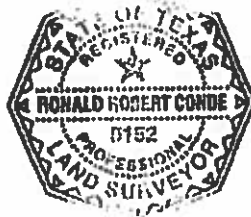
Thence along said line, South 60°34'00" East a distance of 50.00 feet to a chiseled x in concrete on the westerly right of way line of Dyer Street (U.S. Highway No. 54);

Thence along said right of way line, South 29°26'00" West a distance of 510.19 feet to the "TRUE POINT OF BEGINNING" and containing 1,890,365 Square Feet or 43.40 Acres of land more or less.

Note: A drawing of even date accompanies this description.



Ron R. Conde
R.P.L.S. No. 5152



1. ALL LINES ON THIS PLAN ARE TO BE CONSIDERED AS PERMANENT UNLESS OTHERWISE NOTED.
 2. ALL LINES ON THIS PLAN ARE TO BE CONSIDERED AS PERMANENT UNLESS OTHERWISE NOTED.
 3. ALL LINES ON THIS PLAN ARE TO BE CONSIDERED AS PERMANENT UNLESS OTHERWISE NOTED.
 4. ALL LINES ON THIS PLAN ARE TO BE CONSIDERED AS PERMANENT UNLESS OTHERWISE NOTED.
 5. ALL LINES ON THIS PLAN ARE TO BE CONSIDERED AS PERMANENT UNLESS OTHERWISE NOTED.

PLAT OF SURVEY
 BEING A PORTION OF SECTION 22, BLOCK 80, TOWNSHIP 1,
 RANGE 10 NORTH, RANGE 10 WEST,
 CITY OF EL PASO, EL PASO COUNTY, TEXAS

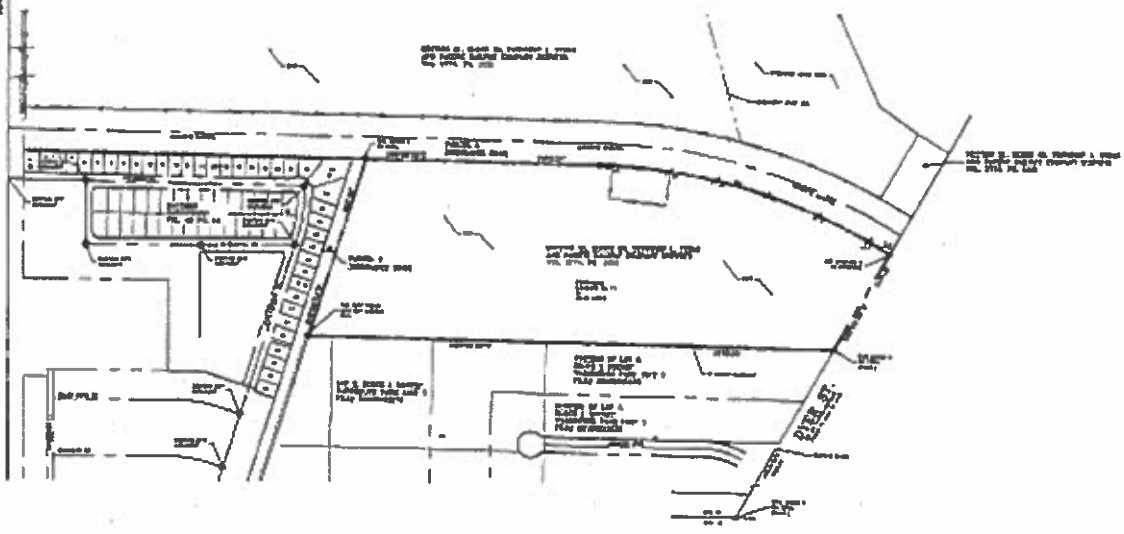
SYMBOLS

1	Right of Way
2	Right of Way
3	Right of Way
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NOTES

1	Right of Way
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9	Right of Way
10	Right of Way

MC COMBS ST.



ENGINEER
 SURVEYOR



Exhibit B

Prepared For: El Paso Water
February 19, 2019
(Reserved Well and Waterline Right of Way)

METES AND BOUNDS DESCRIPTION

Description of a parcel of land being a Portion of Section 31, Block 80, Township 1, Texas and Pacific Railway company Surveys, City of El Paso, El Paso County, Texas, and being more particularly described by metes and bounds as follows:

The "TRUE POINT OF BEGINNING" being a found chiseled x on the intersection of the westerly right of way line of Dyer Street (U.S. Highway No. 54) with the southerly line of a concrete channel being Parcel A as described in ordinance no 2640 from which being a found chiseled x on the intersection of the westerly right of way line of Dyer Street (U.S. Highway No. 54) with the southerly line of a portion of Lot 2, Block 1, Rocket Warehouse Park Unit 3 as described in clerks file no. 20160033626, Real property records of El Paso County, Texas bears South 29°26'00" West a distance of 510.19;

Thence along the westerly right of way line of Dyer Street, South 29°26'00" West a distance of 50.00 feet to a point;

Thence leaving said right of way line, North 60°34'00" West a distance of 50.00 feet to a point of curve;

Thence 1033.18 feet along the arc of a curve to the left which has a radius of 2643.54 feet, a central angle of 22°23'35", a chord which bears North 71°45'47" West a distance 1026.62 feet to a point on the easterly line of a Well Site;

Thence along said line, South 05°26'38" West a distance of 99.98 feet to a point on the southerly line of a Well Site;

Thence along said line, North 84°35'06" West a distance of 150.00 feet to a point on the westerly line of a Well Site;

Thence along said line, North 05°26'38" East a distance of 99.98 feet to a point;

Thence, 174.79 feet along the arc of a curve to the left which has a radius of 2643.54 feet, a central angle of 03°47'18", a chord which bears North 88°06'19" West a distance 174.75 feet to a point;

Thence along said line, North 90°00'00" West a distance of 1108.63 feet to a point on the easterly line of Parcel E as described in Ordinance No. 2640;

Thence along said line, North 16°58'04" East a distance of 52.28 feet to a point on the southerly line of a concrete channel being Parcel A as described in Ordinance 2640;

CONDE INC.

Thence along said line, South 90°00'00" East a distance of 1093.37 feet to a point of curve;

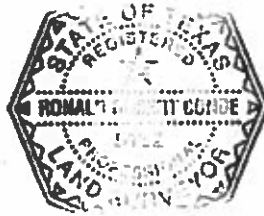
Thence along said line, 1383.67 feet along the arc of a curve to the right which has a radius of 2693.54 feet, a central angle of 29°25'58", a chord which bears South 75°16'59" East a distance 1368.51 feet to a point;

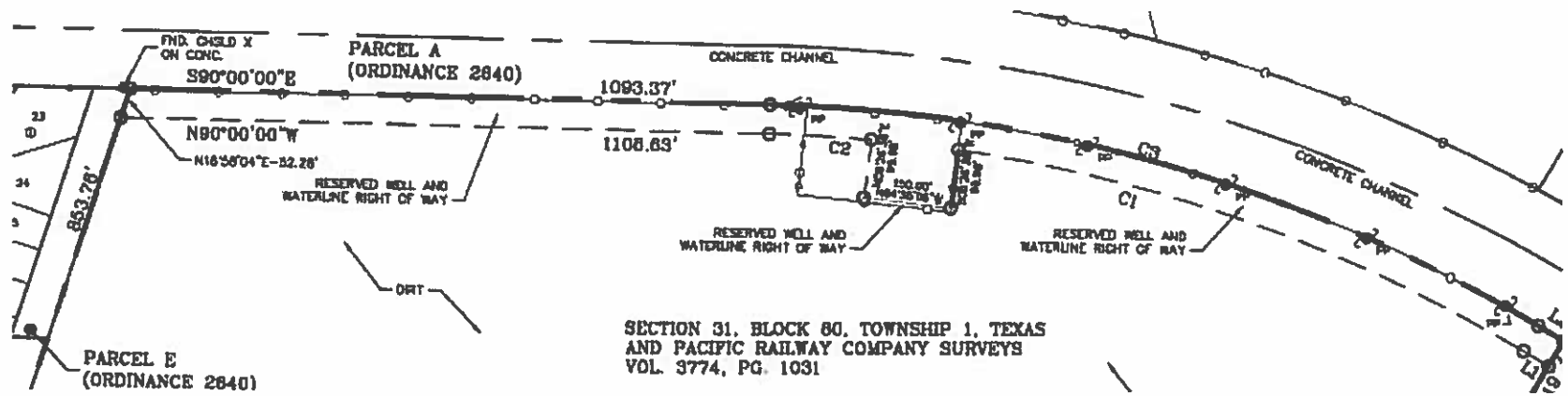
Thence along said right of way line, South 60°34'00" East a distance of 50.00 feet to the 'TRUE POINT OF BEGINNING" and containing 141,195 Square Feet or 3.2414 Acres of land more or less.

Note: A drawing of even date accompanies this description.



Ron R. Conde
R.P.L.S. No. 5152





SECTION 31, BLOCK 80, TOWNSHIP 1, TEXAS
 AND PACIFIC RAILWAY COMPANY SURVEYS
 VOL. 3774, PG. 1031

PURCHASE AND SALE AGREEMENT

This Purchase and Sale Agreement (“Agreement”) is entered into by and between the **THE CITY OF EL PASO, TEXAS**, a Texas municipal corporation, on behalf and for the use and benefit of **EL PASO WATER UTILITIES – PUBLIC SERVICE BOARD** (the “Seller”) and **NORTHTOWNE VILLAGE JOINT VENTURE** (the “Buyer”). The Seller and the Buyer are sometimes each referred to individually herein as a “Party” and collectively as the “Parties”.

WHEREAS, the Buyer won a bid to purchase the Property (defined below) from the Seller in its “as-is, where-is and with all faults” condition and in accordance with the Bid Terms (as defined below) and the terms set forth in this Agreement; and

WHEREAS, the Seller desires to sell the Property to the Buyer in its “as-is, where-is and with all faults” condition and in accordance with the Bid Terms (as defined below) and the terms set forth in this Agreement.

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 Seller hereby agrees to sell and convey, and the Buyer hereby agrees to acquire, the following described real property located in El Paso County, Texas:

An approximately 43.40 acre portion, more or less, out of Section 31, Block 80, Township 1, Texas and Pacific Railway Surveys, City of El Paso, El Paso County, Texas, such portion being legally described by metes and bounds in Exhibit A, attached hereto and incorporated herein for all purposes;

together with any interest, if any, in (i) all improvements and fixtures located thereon, and (ii) 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;

save and except the Reserved Well and Waterline Right of Way (as defined below) (collectively, the “Property”).

The following conditions will be applicable to the sale of the Property by the Seller the Purchaser:

1.1 **Reliance on the Buyer’s Own Diligence.** It is acknowledged and agreed that the Buyer has conducted and is relying solely on its own due diligence concerning the Property, including, without limitation, performing any archeological or environmental reports, studies, or surveys of the Property it, in its sole discretion, has desired to perform, and has determined that the Property is suitable for its intended purposes. Mitigation of any conditions on the Property, including archeological sites or, without limitation, any environmental conditions, shall be at the sole cost and expense of the Buyer who shall take the Property at Closing (as defined below) subject to all conditions existing on the date of the Buyer’s signature to this Agreement. By its signature hereto,

the Buyer accepts responsibility for its own determination of the nature and extent of any archeological sites, or without limitation, any environmental conditions, relating to the Property.

1.2 **Reservation.** In addition to the condition that the Buyer accept title to the Property from the Seller subject to all easements, whether or of record or not, affecting the Property, the Property will also be conveyed to the Buyer at Closing subject to a reservation by the Seller of:

- (i) A approximately 150'-0" x 150'-0" area around Well #529, and
- (ii) a 50'-0" access road to Well #529 over the existing collector line running from Dyer Street toward Northeast Channel #2.

The above-described reservations are collectively described by metes and bounds **Exhibit B** attached hereto and incorporated herein for all purposes (the foregoing reservations, collectively, the "Reserved Well and Waterline Right of Way").

1.3 **Surface water and Groundwater.** Any rights to the use of surface water (including to any government or other permits) appurtenant or in any way related to the Property are reserved to the Seller. In addition, the entire groundwater estate related the Property, including without limitation, the Groundwater (as defined below) and Groundwater Rights (as defined below) are reserved to the Seller. The term "Groundwater" shall mean all of the underground water, percolating water, artesian water, and any other water existing now and in the future from any and all depths, reservoirs, aquifers, formations, and horizons beneath the surface of the Property. The term "Groundwater Rights" shall mean (1) the right to access, test, capture, explore for, drill for, develop, withdraw, produce, store, treat, transport or otherwise acquire and beneficially use, reuse, or recharge, any and all of the Groundwater beneath the Property; (2) the right to take all usual, necessary, and convenient means to use the surface of the Property for access to and to explore for, develop, treat, produce, and transport the Groundwater; and (3) the right to apply for and obtain all permits, licenses, or other governmental authorizations relating to any of the foregoing, including but not limited to any permit issued by a groundwater conservation district or other governmental entity existing now or in the future and having jurisdiction over the Groundwater and/or the exploration, drilling, production, use, storage, treatment, reuse, recharge or transport of Groundwater that may be necessary for the full and unfettered exercise of the Seller's rights therein. For the avoidance of doubt, Buyer shall not have the right to drill a well and produce therefrom any quantity of groundwater.

1.4 **Modification of Water, Sanitary Sewer, and Appurtenances.** Buyer shall be responsible for the costs of any necessary on-site and off-site extensions, relocations, replacements, or adjustments of water, sanitary sewer, and appurtenances necessitated by and attributable to the proposed subdivision improvement plans.

1.5 **Bid Terms.** The bid and other conditions applicable to the Buyer set forth on **Exhibit C** (Bid Document #110-18) (the "Bid Terms"), shall be incorporated into this Agreement as if fully set forth herein and will be applicable to the sale of the Property and the Buyer's ownership thereof for all purposes.

2. **Amount of Payment of Purchase Price.** The purchase price for the Property shall be TWO MILLION ONE HUNDRED AND SEVENTY-FIVE THOUSAND DOLLARS AND 00/100 (\$2,175,000.00) (the "Purchase Price").

- 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.** Earnest Money paid to the Seller by the Buyer in the amount of ONE HUNDRED AND EIGHT THOUSAND AND SEVEN HUNDRED FIFTY DOLLARS AND 00/100 (\$108,750.00) (the "Earnest Money") shall be credited towards the Purchase Price if and when Closing occurs.
3. **Title Insurance.** The Buyer at its sole cost and expense will order a title commitment ("Commitment") from [WestStar Title] (the "Title Company"), 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 the amount of the Purchase Price (the "Owner's Policy"). The Buyer will provide copies of the Commitment and all recorded documents affecting the Property promptly upon its receipt of the same, but in any event, within three (3) days of the Effective Date.
4. **Representations of the Seller.** The Seller hereby represents, to the extent allowed by law, to the Buyer, that, to its actual knowledge, the following are true in all material respects:
 - 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 or tenants at sufferance.
 - 4.2 **Mechanic's Lien.** (i) No liens arising from the Seller's actions or otherwise, exist for the benefit of mechanics or materialmen in regard to the Property; and (ii) except as expressly disclosed in the documents relating to this transaction, the Seller 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 Seller.
 - 4.3 **Litigation.** There is no pending 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 Seller's ownership.
 - 4.6 **Taxes.** While the Seller owned the Property, the Property was exempt from ad valorem taxes.
5. **Representations of the Buyer.** The Buyer hereby represents, to the extent allowed by law, to the Seller, that to the best of its knowledge, the following are true:
 - 5.1 **Authority.** The Buyer has full power and authority to execute and deliver this Agreement and to perform and carry out all covenants and obligations to be performed and carried out by the Buyer herein.

- 5.2 **Non-Contravention.** The execution and delivery of this Agreement by the Buyer and the consummation by the Buyer of the transactions contemplated hereby will not materially violate any judgment, order, injunction, decree, regulation or ruling of any court or any governmental or quasi-governmental bodies or agencies having jurisdiction over the Buyer, or conflict with, result in a breach of, or constitute a default under the organizational documents of the Buyer, any note or other evidence of indebtedness, any mortgage, deed of trust or indenture, or any lease or other material agreement or instrument to which the Buyer is a party or by which it is bound.
- 5.3 **Consents.** No consent, waiver, approval or authorization is required from any person or entity that has not already been obtained as of the Effective Date or, if appropriate, which will be obtained prior to Escrow Delivery Date, in connection with the execution and delivery of this Agreement by the Buyer or the performance by the Buyer of the transactions contemplated hereby, except for those the failure of which to be obtained would not be reasonably expected to cause a material adverse effect to the Buyer.
- 5.4 **Bankruptcy.** The Buyer has not (i) commenced a voluntary case, or had entered against it a petition, for relief under any federal bankruptcy statute or any similar petition, order or decree under any federal or state law or statute relative to bankruptcy, insolvency or other relief for debtors, or solicited or caused to be solicited petitioning creditors for any involuntary petition against it, or filed an answer consenting to or otherwise acquiescing in or joining in any involuntary petition filed against it, (ii) caused, suffered or consented to the appointment of a receiver, trustee, administrator, conservator, liquidator or similar official in any federal, state or foreign judicial or non-judicial proceeding, to hold, administer and/or liquidate all or substantially all of its property, (iii) filed or had filed against it a petition seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief, (iv) under the provisions of any other law for the relief or aid of debtors, had an action taken by any court of competent jurisdiction that allows such court to assume custody or control of it or of the whole or any substantial part of its property or assets, or (v) made an assignment for the benefit of creditors, or admitted, in writing or in any legal proceeding, its insolvency or inability to pay its debts as they become due.
- 5.5 **Litigation.** There is no pending action, suit, arbitration, unsatisfied order or judgment, litigation, government investigation or proceeding against or affecting the Buyer that would materially detrimentally affect the Buyer's ability to perform hereunder.
- 5.6 **Bid Terms.** The Buyer has complied with the Bid Terms as of the Effective Date.
6. **Closing.** The Closing of this transaction ("Closing") shall take place at the offices of the Title Company within thirty (30) days from the date of approval by the City Council of the City of El Paso of an ordinance authorizing the sale of the Property by the Seller to the Buyer (the "Approval Date").
- 6.1 **Possession.** Possession of the Property will be transferred to the Buyer at Closing.
- 6.2 **Closing Costs.** The Buyer shall pay all closing costs, including without limitation:

- (a) Any and 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) Any and all 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) The Buyer will pay any and all escrow fees.
- (d) Any and all real estate appraisals, surveys, and advertising fees shall be paid by the Buyer.

6.3 Conditions to the Seller's Obligation to Close. The obligations of the Seller hereunder to consummate the transactions contemplated herein are subject to the satisfaction of: (i) the occurrence of the Approval Date, (ii) the performance of all of the Buyer's obligations under this Agreement, (iii) all of the Buyer's representations and warranties herein being true and correct, and (iv) the filing of any covenants necessary to cause use and development of the Property to comply with the Bid Terms. In the event any of the conditions are not satisfied on or before the Closing, the Seller may, in its sole discretion, waive one or more of said conditions and proceed to Closing, or terminate this Agreement thereby entitling the Seller to retain the Earnest Money.

6.4 The Seller's Obligations at the Closing. At Closing, the Seller shall deliver to the Buyer a duly executed and acknowledged Special Warranty Deed, prepared by the Seller's counsel and in form and substance acceptable to the Seller, conveying the Property and any related easements, free and clear of any and all monetary liens and encumbrances, 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) all easements, restrictions, reservations, rights of way, dedications, conditions, and other encumbrances of record (including without limitation all exceptions to title set forth in the Title Commitment) or apparent upon the Property.

7. Default.

7.1 Default by the Buyer. If, there occurs a breach or default by the Buyer under any provision in this Agreement, or the Buyer shall fail to consummate the sale of the Property, the Seller shall be entitled to retain the Earnest Money and the Independent Consideration then held by the Title Company as liquidated damages and to terminate this Agreement, thereby releasing the Buyer from its obligations hereunder except those which expressly survive the expiration or termination of this Agreement. The Parties hereby agree that (i) the damages resulting from any default or breach by the Buyer hereunder would be difficult to determine, (ii) the retention by the Seller of the Earnest Money (inclusive of the Independent Consideration) is a reasonable estimate of the actual damages that the Seller would suffer in the event of such a default or breach by the Buyer and (iii) that the amount of such liquidated damages is fair and reasonable and would not act as a penalty to the Buyer.

7.2 Default by the Seller. If, due to any default or breach by the Seller under this Agreement, the Seller does not deliver to the Buyer the Special Warranty Deed conveying

the Property to the Buyer as described in this Agreement, the Buyer shall be entitled to either (i) declare this Agreement terminated, in which event the Earnest Money shall be retained by the Buyer, and thereafter neither the Seller nor the Buyer shall have any further obligations to the other hereunder except for those which expressly survive the expiration or termination hereof, or (ii) enforce specific performance of this Agreement; provided, however, that the remedy of specific performance shall not be available unless the El Paso City Council has duly authorized the sale of the Property by the Seller to the Buyer.

7.3 Recoverable Damages. The provisions of Sections 7.1 and 7.2 shall limit the damages recoverable by either Party against the other Party due to the other Party's default or breach of the express provisions of this Agreement (except for defaults or breaches due to inaccurate or incorrect representations and warranties resulting from the intentional or knowing actions of a Party as set forth in Sections 4 and 5 above) and, in addition to such limitations, **in no event shall the Seller or the Buyer be liable for any special, direct, indirect, consequential, punitive or other damages.**

7.4 Costs of Enforcement. Any provision in this Agreement to the contrary notwithstanding, if a Party files suit to enforce or recover amounts owed under this Agreement before or after Closing or the earlier termination of this Agreement, the prevailing Party in such litigation shall be entitled to recover from the non-prevailing Party court costs and reasonable attorney's fees.

8. Covenants.

8.1 The Buyer's use of the Property. The Buyer covenants to own and use the Property in accordance with the Bid Terms and agrees to promptly execute and deliver to the Seller upon request of the same any documents, agreements, including, without limitation, restrictive covenants containing one or more of the Bid Terms, or similar writings that may be necessary to memorialize or evidence the Buyer's compliance with the Bid Terms. In addition, the Buyer agrees to comply with all city, state and federal laws and/or ordinances that may be applicable to the Property.

8.2 ENVIRONMENTAL MATTERS. AFTER CLOSING, BETWEEN THE SELLER 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 SELLER 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.

9. Miscellaneous.

9.1 **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 the date the same is 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. Email notice must be accompanied with another form of notice allowed hereby in order to be effective.

The Seller: Marcela Navarrete
Vice President
El Paso Water Utilities Public Service Board
1154 Hawkins Blvd.
El Paso, Texas 79925
mnavarrete@epwater.org

with a copy to
Zach Daw and Matt Armendariz
One San Jacinto Plaza
201 E. Main Dr., Ste 1100
El Paso, Texas 79901
zdaw@scotthulse.com and marm@scotthulse.com

The Buyer: Northtowne Village Joint Venture
Robert L. Bowling III, Managing Partner
4712 Woodrow Bean, Ste. A
El Paso, Texas 79924

9.2 **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.

9.3 **Time.** Time is of the essence of this Agreement and each and every provision hereof.

9.4 **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.

9.5 **Survival of Provisions.** The terms contained in Section 1.1, 1.2, 1.3, 1.4, 1.5, 5, 6.3, 6.4, 7, 8, 9.2, 9.4, 9.5, 9.6, 9.7, 9.8, 9.9, 9.11, and 9.12 of this Agreement, 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.

- 9.6 **Binding Effect.** This Agreement shall be binding upon the parties hereto and their respective successors and assigns.
- 9.7 **Compliance.** In accordance with the requirements of the Property Code, Title 2, Chapter 5, Subchapter D, the 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.
- 9.8 **"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 SELLER 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 BY THE SELLER. THE BUYER FURTHER ACKNOWLEDGES AND AGREES THAT ANY INFORMATION PROVIDED BY THE SELLER WITH RESPECT TO THE PROPERTY WAS OBTAINED FROM A VARIETY OF SOURCES AND THAT THE SELLER 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 SELLER 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. THE BUYER ACKNOWLEDGES AND AGREES THAT THE DISCLAIMERS, WAIVERS AND OTHER AGREEMENTS SET FORTH HEREIN ARE INTEGRAL PARTS OF THE AGREEMENT BETWEEN THE SELLER AND THE BUYER WITH RESPECT TO THE SALE OF THE PROPERTY, AND THAT THE SELLER WOULD NOT HAVE AGREED TO SELL THE PROPERTY TO THE

BUYER FOR THE PURCHASE PRICE WITHOUT THE DISCLAIMERS AND OTHER AGREEMENTS SET FORTH ABOVE.

- 9.10 **Effective Date.** As used herein, "Effective Date" shall mean the date on which of City Council approves of an Ordinance authorizing the City Manager to sign all documents necessary for the sale of the Property or the date on which the City Manager has actually signed this Agreement, whichever is later.
- 9.10 **Assignment.** The Buyer shall have the right to assign this Agreement or any of its rights hereunder to an affiliate of the Buyer with the prior written consent of the Seller, which consent shall not be unreasonable withheld or delayed; provided, however, that (i) such assignee shall assume all of the obligations of the Buyer hereunder, (ii) the Buyer shall remain liable for all of its duties and obligations hereunder, and (iii) the Buyer shall deliver written notice of the assignment, including a copy of the assignment instrument, to the Seller at least three (3) days prior to the Closing.
- 9.11 **Counterparts.** This Contract of Sale may be executed in multiple counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same document. Faxed and emailed signature pages may be accepted as originals.
- 9.12 **Successors and Assigns.** This Contract of Sale shall inure to the benefit of and be binding upon the heirs, personal representatives, administrators, successors and assigns, as applicable of the respective parties hereto.

(Signature page follows.)

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be duly executed as of the date written below such Party's signature below, but to be effective as of the Effective Date.

THE SELLER:

THE CITY OF EL PASO, TEXAS,
a Texas municipal corporation, on
behalf and for the use and benefit of
EL PASO WATER UTILITIES
- PUBLIC SERVICE BOARD

By: Marcela Navarrete
Marcela Navarrete
Vice President

Executed on: April 11, 2019

APPROVED AS TO FORM:

Lee Ann Koheler
Lee Ann Koheler,
General Counsel

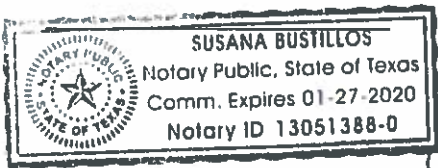
ACKNOWLEDGMENT

STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on the 11th day of April, 2019, by Marcela Navarrete, Vice President of El Paso Water Utilities Public Service Board.

My Commission Expires:

Susana Bustillos
Notary Public, State of Texas



(Additional Signatures on Following Page)

THE SELLER:

THE CITY OF EL PASO,
a Texas municipal corporation

By: _____
Tomás Gonzalez, City Manager

Executed on: _____

APPROVED AS TO FORM:

Roberta Brito
Roberta Brito,
Assistant City Attorney

ACKNOWLEDGMENT

STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on the _____ day of _____, 2019, by Tomás Gonzalez, City Manager of the City of El Paso, a Texas municipal corporation, on behalf of said municipal corporation.

My Commission Expires:

Notary Public, State of Texas

(Additional Signatures on Following Page)

THE BUYER:

NORTHTOWNE VILLAGE JOINT VENTURE,
a Texas limited partnership

By: Robert L. Bowling III
Robert L. Bowling III, Managing Partner

Executed on: 26 Feb 2019

ACKNOWLEDGMENT

STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on the 26th day of February, 2019, by Robert L. Bowling III, Managing Partner of Northtowne Village Joint Venture, on behalf of said limited partnership.

My Commission Expires:

10-13-2021

Noemi Hernandez
Notary Public, State of Texas

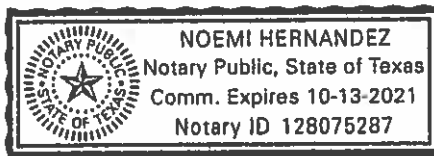


Exhibit A

Prepared For: El Paso Water
January 3, 2017

METES AND BOUNDS DESCRIPTION

Description of a parcel of land being a Portion of Section 31, Block 80, Township 1, Texas and Pacific Railway company Surveys, City of El Paso, El Paso County, Texas, and being more particularly described by metes and bounds as follows:

The "TRUE POINT OF BEGINNING" being a found chiseled x on the intersection of the westerly right of way line of Dyer Street (U.S. Highway No. 54) with the northerly line of that parcel of land being a portion of Lot 2, Block 1, Rocket Warehouse Park Unit Three described in clerks file no. 20160033626, Real property records of El Paso county, Texas from which a chiseled "x" found in concrete on the intersection of the westerly right of way of Dyer St. with the common line of Sections 31 and 42, Block 80, Township 1, Texas and Pacific Railway company Surveys bears South 29°26'00" West a distance of 2799.33 feet;

Thence leaving the westerly right of way line of Dyer Street, North 90°00'00" West a distance of 2458.96 feet to a set 1/2" rebar with cap marked TX 5152 on the easterly line of drainage channel labeled "Parcel E" as described in Ordinance No. 2640, dated March 8, 1962;

Thence along said line, North 16°58'04" East a distance of 853.76 feet to a set 1/2" rebar with cap marked TX 5152 on the southerly line of drainage channel labeled "Parcel A" as described in Ordinance No. 2640, dated March 8, 1962;


Thence along said line, South 90°00'00" East a distance of 1093.37 feet to a point of curve;

Thence along said line, 1383.67 feet along the arc of a curve to the right which has a radius of 2693.54 feet, a central angle of 29°25'58", a chord which bears South 75°16'57" East a distance 1368.51 feet to a set 1/2" rebar with cap marked TX 5152;

Thence along said line, South 60°34'00" East a distance of 50.00 feet to a chiseled x in concrete on the westerly right of way line of Dyer Street (U.S. Highway No. 54);

Thence along said right of way line, South 29°26'00" West a distance of 510.19 feet to the "TRUE POINT OF BEGINNING" and containing 1,890,365 Square Feet or 43.40 Acres of land more or less.

Note: A drawing of even date accompanies this description.


Ron R. Conde
R.P.L.S. No. 5152



CONDE INC.
ENGINEERING / LAND SURVEYING / PLANNING
6080 SURETY DRIVE / SUITE 100 / EL PASO, TEXAS 79905 (915) 592-0283
FAX (915) 592-0286 FIRM NO. 10078100

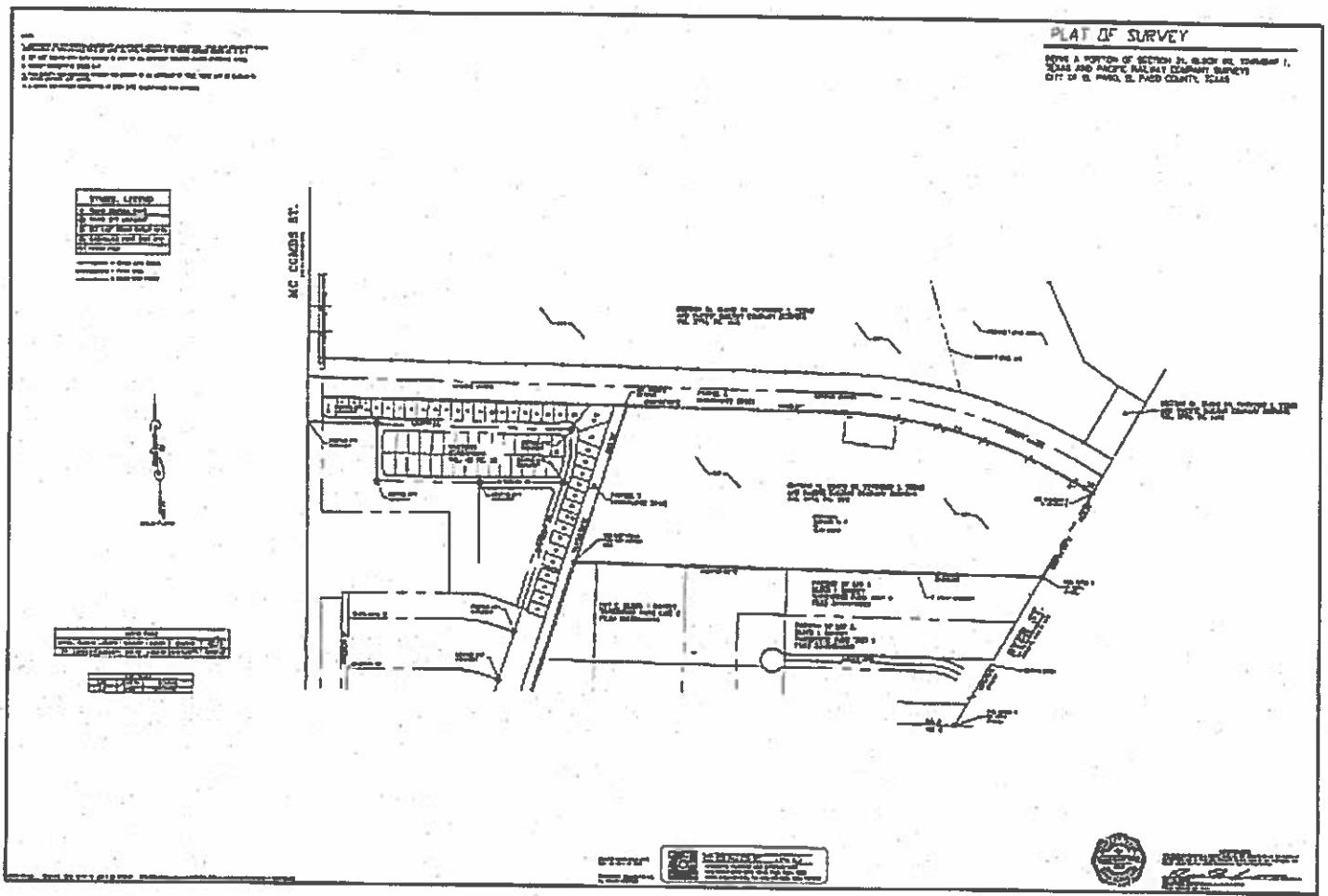


Exhibit B
Reserved Well and Waterline Right of Way

Prepared For: El Paso Water
February 19, 2019
(Reserved Well and Waterline Right of Way)

METES AND BOUNDS DESCRIPTION

Description of a parcel of land being a Portion of Section 31, Block 80, Township 1, Texas and Pacific Railway company Surveys, City of El Paso, El Paso County, Texas, and being more particularly described by metes and bounds as follows:

The "TRUE POINT OF BEGINNING" being a found chiseled x on the intersection of the westerly right of way line of Dyer Street (U.S. Highway No. 54) with the southerly line of a concrete channel being Parcel A as described in ordinance no 2640 from which being a found chiseled x on the intersection of the westerly right of way line of Dyer Street (U.S. Highway No. 54) with the southerly line of a portion of Lot 2, Block 1, Rocket Warehouse Park Unit 3 as described in clerks file no. 20160033626, Real property records of El Paso County, Texas bears South 29°26'00" West a distance of 510.19;

Thence along the westerly right of way line of Dyer Street, South 29°26'00" West a distance of 50.00 feet to a point;

Thence leaving said right of way line, North 60°34'00" West a distance of 50.00 feet to a point of curve;

Thence 1033.18 feet along the arc of a curve to the left which has a radius of 2643.54 feet, a central angle of 22°23'35", a chord which bears North 71°45'47" West a distance 1026.62 feet to a point on the easterly line of a Well Site;

Thence along said line, South 05°26'38" West a distance of 99.98 feet to a point on the southerly line of a Well Site;

Thence along said line, North 84°35'06" West a distance of 150.00 feet to a point on the westerly line of a Well Site;

Thence along said line, North 05°26'38" East a distance of 99.98 feet to a point;

Thence, 174.79 feet along the arc of a curve to the left which has a radius of 2643.54 feet, a central angle of 03°47'18", a chord which bears North 88°06'19" West a distance 174.75 feet to a point;

Thence along said line, North 90°00'00" West a distance of 1108.63 feet to a point on the easterly line of Parcel E as described in Ordinance No. 2640;

Thence along said line, North 16°58'04" East a distance of 52.28 feet to a point on the southerly line of a concrete channel being Parcel A as described in Ordinance 2640;

CONDE INC.

Thence along said line, South 90°00'00" East a distance of 1093.37 feet to a point of curve;

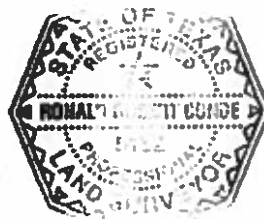
Thence along said line, 1383.67 feet along the arc of a curve to the right which has a radius of 2693.54 feet, a central angle of 29°25'58", a chord which bears South 75°16'59" East a distance 1368.51 feet to a point;

Thence along said right of way line, South 60°34'00" East a distance of 50.00 feet to the 'TRUE POINT OF BEGINNING" and containing 141,195 Square Feet or 3.2414 Acres of land more or less.

Note: A drawing of even date accompanies this description.



Ron R. Conde
R.P.L.S. No. 5152



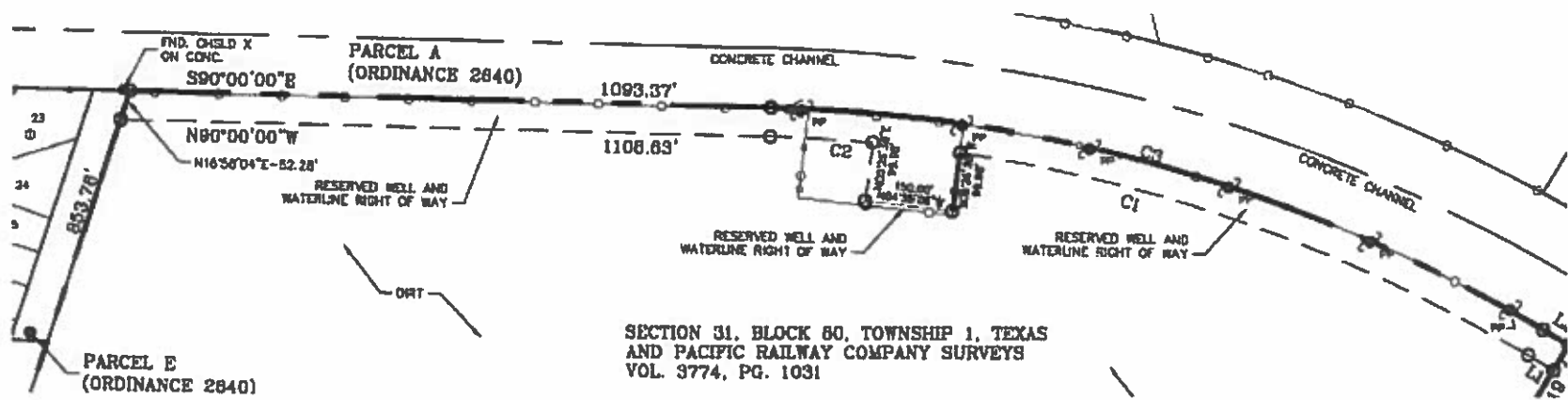


Exhibit C
The Bid Terms (Bid Document #110-18)

(see attached.)

EL PASO WATER UTILITIES
PUBLIC SERVICE BOARD

PORTION OF SECTION 31, BLOCK 80
TOWNSHIP 1, TEXAS AND PACIFIC RAILWAY SURVEYS
CITY OF EL PASO, EL PASO COUNTY, TEXAS

BID NUMBER:
110-18

TO BE OPENED:
December 14, 2018
At 10 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.

<u>DESCRIPTION OF LAND</u>	<u>TOTAL AMOUNT BID</u>
PORTION OF SECTION 31, BLOCK 80 TOWNSHIP 1, TEXAS AND PACIFIC RAILWAY SURVEYS CITY OF EL PASO, EL PASO COUNTY, TEXAS APPROXIMATELY (43.40 ACRES)	\$ <u>2,175,000.⁰⁰</u>

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 **\$1,379,966.00**. In addition, the successful bidder must pay all proportional costs of title insurance, advertising, appraisals, and surveys at closing.

Northtowne Village Joint Venture
FIRM


SIGNATURE

Robert L. Bowling III - Managing Partner
PRINTED NAME

4712 Woodrow Bean, Ste A, El Paso, Tx 79924
MAILING ADDRESS

915-757-1802 / Fax: 915-757-1827
TELEPHONE NUMBER / FAX

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

SALE OF REAL ESTATE

**GENERAL CONDITIONS AND
INSTRUCTIONS TO BIDDERS**

**BID NUMBER
110-18**

Sealed bids addressed to John E. Balliew, P.E., President/CEO, El Paso Water Utilities for the sale of property described as a portion of Section 31, Block 80, Township 1, Texas and Pacific Railway Surveys, City of El Paso, El Paso County, Texas, totaling approximately **43.40 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 **10:00 A.M.**, local time, **December 14, 2018**, 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 **10:00 A.M.**, local time, **December 14, 2018**, 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 \$1,379,966.00**. In addition, the successful bidder must pay at closing, all costs of title insurance, advertising, appraisal, and survey.
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 prepare a contract of sale and deed and any other information or documentation necessary to close the sale.. 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 EPWU General 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 in writing to the Purchasing Department of the El Paso Water Utilities - Public Service Board, attn: Levi Chacon at lchacon@epwater.org.
18. Technical questions concerning the bid package should be directed to the Utility Land and Water Rights Manager of the El Paso Water Utilities – Public Service Board, attn: Alma De Anda at ADeAnda@epwater.org.

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 development of the property, including the design, location and construction of improvements shall be per City of El Paso Code requirements, including any City Code requirements for a Land Study prior to development. 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 (R-F) 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 property. Mitigation of any conditions on the property, including archeological sites or, without limitations, adverse environmental conditions, shall be at the sole 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. 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.
 25. The subject property lies within flood zone designation C (Areas of Minimal flooding).
 26. Area abuts Flow Path 14 (NE Channel 2) to the west which lies within flood zone designation A1 (Areas of 100 year flood; base flood elevations and flood hazard factors determined) and Zone B (Areas between limits of the 100-year flood and 500-year flood; or certain areas subject to 100-year flooding with average depths less than one (1) foot or where the contributing drainage area is less than one square mile; or areas protected by levees from the vase flood and Flow Path 13 (NE Channel #1) to the north which lie within flood zone designation A1 (areas of 10year flood; base flood elevations and flood hazard factors determined) and Green Belt Levee – Zone A (Areas of 100-year flood; base flood elevations and flood hazard factors not determined) no drainage connections to these structures will be permitted.
 27. The Developer shall provide an acceptable Drainage Plan in accordance with Section 19.01.050 of the current City Ordinance.
 28. As per Municipal Code: new developments and redevelopments are required to maintain the pre-development hydrologic response in their post-development state as nearly as practicable in order to reduce flooding. Any excess runoff must be retained within the development. The code also encourages the use of nonstructural stormwater management such as the preservation of greenspace, water harvesting, and other conservation efforts, to the maximum extent practicable, per Chapter 19.19, Section 19.19.010, and Subparagraph A-2 & A-5.
 29. The successful bidder or his successors agree to provide, at no cost to the El Paso Water Utilities – Public Service Board, any drainage easements may be required.

WATER AND SANITARY SEWER SERVICE REQUIREMENTS

30. 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.
31. 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.
32. 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.
33. 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.
34. The successful bidder shall grant easements at no cost for water, and sewer facilities to the El Paso Water Utilities, City of El Paso as requested by El Paso Water Utilities at the time of subdivision plat submittal by the successful bidder.
35. The El Paso Water Utilities - Public Service Board shall save and except the following property from this sale. The El Paso Water Utilities - Public Service Board shall preserve a fee simple interest in the following properties:
 - a) A 150'-0" x 150'-0" area around Well #529. Surveys showing the exact location of the excepted property will be available to the successful bidder.
 - b) A 50'-0" access road to Well #529 and over the existing collector line running from Dyer Street toward Northeast Channel #2, as determined by EPWater. Surveys showing the exact location of the excepted property will be available to the successful bidder.
36. The successful bidder shall grade the property to allow sanitary sewer by gravity to the appropriate mains during any development of the site.
37. Documents showing existing EPWater infrastructure in the area may be examined at the Purchasing & Contracts Section located at 1154 Hawkins Blvd. However, no photographs or photocopies of the infrastructure documents will be allowed.

EXHIBIT "A"

Prepared For: El Paso Water
January 3, 2017

METES AND BOUNDS DESCRIPTION

Description of a parcel of land being a Portion of Section 31, Block 80, Township 1, Texas and Pacific Railway company Surveys, City of El Paso, El Paso County, Texas, and being more particularly described by metes and bounds as follows:

The "TRUE POINT OF BEGINNING" being a found chiseled x on the intersection of the westerly right of way line of Dyer Street (U.S. Highway No. 54) with the northerly line of that parcel of land being a portion of Lot 2, Block 1, Rocket Warehouse Park Unit Three described in clerks file no. 20160033626, Real property records of El Paso county, Texas from which a chiseled "x" found in concrete on the intersection of the westerly right of way of Dyer St. with the common line of Sections 31 and 42, Block 80, Township 1, Texas and Pacific Railway company Surveys bears South 29°26'00" West a distance of 2799.33 feet;

Thence leaving the westerly right of way line of Dyer Street, North 90°00'00" West a distance of 2458.96 feet to a set ½" rebar with cap marked TX 5152 on the easterly line of drainage channel labeled "Parcel E" as described in Ordinance No. 2640, dated March 8, 1962;

Thence along said line, North 16°58'04" East a distance of 853.76 feet to a set ½" rebar with cap marked TX 5152 on the southerly line of drainage channel labeled "Parcel A" as described in Ordinance No. 2640, dated March 8, 1962;

Thence along said line, South 90°00'00" East a distance of 1093.37 feet to a point of curve;

Thence along said line, 1383.67 feet along the arc of a curve to the right which has a radius of 2693.54 feet, a central angle of 29°25'58", a chord which bears South 75°16'57" East a distance 1368.51 feet to a set ½" rebar with cap marked TX 5152;

Thence along said line, South 60°34'00" East a distance of 50.00 feet to a chiseled x in concrete on the westerly right of way line of Dyer Street (U.S. Highway No. 54);

Thence along said right of way line, South 29°26'00" West a distance of 510.19 feet to the "TRUE POINT OF BEGINNING" and containing 1,890,365 Square Feet or 43.40 Acres of land more or less.

Note: A drawing of even date accompanies this description.



Ron R. Conde
R.P.L.S. No. 5152



CONDE INC.
ENGINEERING / LAND SURVEYING / PLANNING
6080 SURETY DRIVE / SUITE 100 / EL PASO, TEXAS 79905 (915) 592-0283
FAX (915) 592-0286 FIRM NO. 10078100

EXHIBIT "A"

PLAT OF SURVEY

BEING A PORTION OF SECTION 31, BLOCK 80, TOWNSHIP 1, TEXAS AND PACIFIC RAILWAY COMPANY SURVEYS CITY OF EL PASO, EL PASO COUNTY, TEXAS

1. APPROVED BY THE FEDERAL SURVEYING COMMISSION UNDER PLANS NUMBER: 4465 AND SUBSEQUENT PLANS 4465-1000 & 4465-1001 DATED BY APRIL 16, 1964, UNDER PROVISIONS OF PLANS NUMBER 4465, 4465-1000 & 4465-1001.
2. SET 1/2" SCALE WITH DATA SUPPLIED BY CITY OF EL PASO, PROPERTY SURVEY DIVISION UNDER PLANS 4465-1000 & 4465-1001.
3. SURVEY PROPERTY OF CITY OF EL PASO.
4. THIS SURVEY WAS CONDUCTED UNDER THE SUPERVISION OF AN APPROVED SURVEYOR, WHOSE NAME AND ADDRESS ARE PRINTED HEREON.
5. A METRIC AND ENGLISH DESCRIPTION OF EACH DATE ACCORDS WITH DRAWING.

SYMBOL LEGEND

●	TRIPOD CONTROL POINT
○	TRIPOD CITY SURVEY POINT
○	SET 1/2" SCALE 1/4" (1/2" 112)
⊠	ENLARGED POINT (TOP CITY)
— —	POWER POLE

——— GRASS LINE FENCE
 - - - - - IRON PIPE
 ——— SAND FENCE



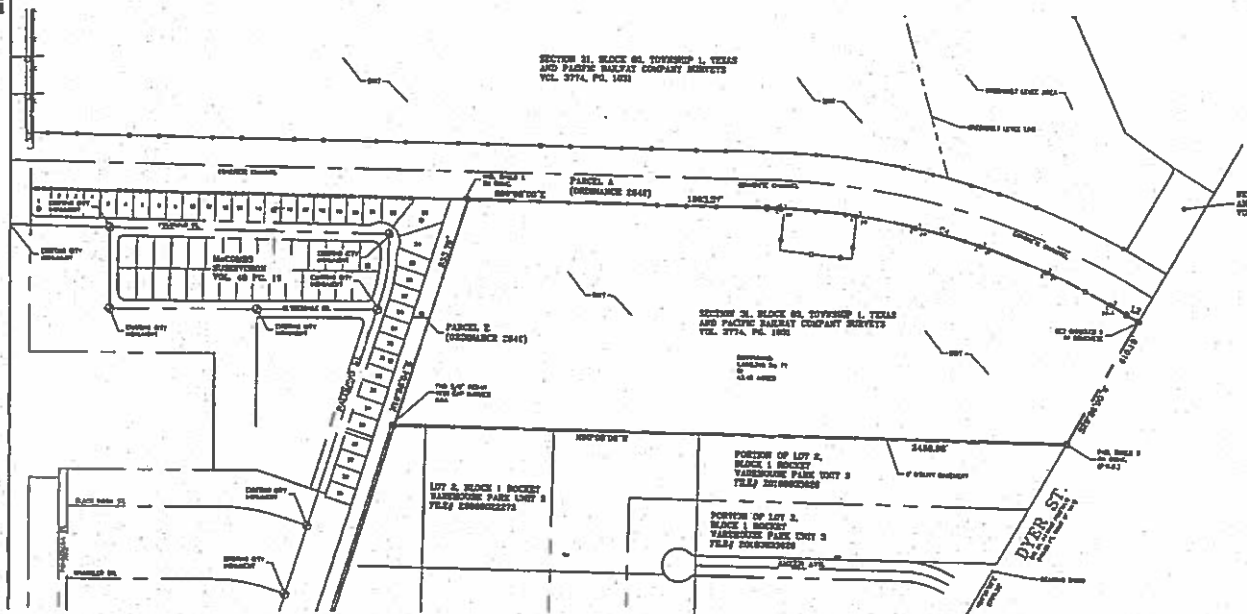
CURVE DATA

CHORD BEARS	LENGTH	CHORD BEARS	CHORD BEARS	CHORD BEARS
24	100.00	100.00	100.00	100.00

LINE DATA

LINE BEARS	LINE BEARS	LINE BEARS
12	100.00	100.00

MC COMBS ST.



CONDE INC.
 1000 WEST 10TH AVENUE
 DENVER, COLORADO 80202
 (303) 733-1111
 CONDE INC. IS AN EQUAL OPPORTUNITY EMPLOYER.



I, the undersigned, being a duly qualified and licensed Surveyor in the State of Texas, do hereby certify that the foregoing is a true and correct copy of the original as the same appears in my office.

 SURVEYOR