

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

DEPARTMENT: El Paso Water Utilities Public Service Board

AGENDA DATE: Introduction – April 22, 2014
Public Hearing – April 29, 2014

CONTACT PERSON/PHONE: Lupe Cuellar, Real Estate Manager and Counsel, 594-5636

DISTRICT(S) AFFECTED: 3

SUBJECT: APPROVE the following Ordinance

An Ordinance authorizing the City Manager to sign a Contract of Sale and a Special Warranty Deed conveying a 0.2594 acre parcel of land being a Portion Of Lot 1, Block 2, International Industrial Center, Unit 1, City Of El Paso, El Paso County, Texas, and any other documents necessary to complete the sale to EP Shalom, L.P. (District 3) El Paso Water Utilities, Lupe Cuellar, Real Estate Manager and Counsel. (915) 594-5636

BACKGROUND / DISCUSSION:

EP Shalom, L.P. submitted a request to purchase approximately a 0.2594 acre parcel of city land, located at the intersection of Edgemere and Airways in Central El Paso. This land is in the City of El Paso, El Paso Water Utilities/Public Service Board land inventory, which is City land managed and controlled by the Public Service Board. The Board determined the land to be inexpedient to the system and that the request to purchase the land be forwarded to the City Council for action. The purchaser agreed to pay the fair market value as appraised at \$13,100.00.

PRIOR COUNCIL ACTION:

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

Yes, on December 17, 2013, City Council approved the sale of approximately 1.24 acres of land.

AMOUNT AND SOURCE OF FUNDING: N/A

BOARD / COMMISSION ACTION:

The El Paso Water Utilities Public Service Board determined that the land was inexpedient to the system and recommended that the land be sold.

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

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO SIGN A CONTRACT OF SALE AND A SPECIAL WARRANTY DEED CONVEYING A 0.2594 ACRE PARCEL OF LAND BEING A PORTION OF LOT 1, BLOCK 2, INTERNATIONAL INDUSTRIAL CENTER, UNIT 1, CITY OF EL PASO, EL PASO COUNTY, TEXAS, AND ANY OTHER DOCUMENTS NECESSARY TO COMPLETE THE SALE TO EP SHALOM, L.P.

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

WHEREAS, EP Shalom, L.P. submitted a request to purchase property abutting his lot and such property is contained within the EPWU/PSB land inventory; and,

WHEREAS, the EPWU/PSB determined that the land is inexpedient to the Municipal Drainage Utility system and recommended selling the land to EP Shalom, L.P. and authorized the President/CEO to forward the recommendation to City Council for City Council action; and,

WHEREAS, Section 272.001(b) (1) of the Texas Local Government Code provides for an exception to the bidding requirements for narrow strips of land, or land that because of their shape, lack of access to public roads, or small area cannot be used independently under its current zoning or under applicable subdivision or other development control ordinances and allows such lands to be sold to the abutting property owner;

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 a Special Warranty Deed and any other documents necessary to complete the sale and conveyance to EP Shalom, L.P., the following described real property:

Being a .2594 acre of land consisting of a portion of Lot 1, Block 2, International Industrial Center, Unit 1, City of El Paso, El Paso County, Texas, and as more particularly described in Exhibit "A" attached hereto and made a part hereof by this reference for all purposes.

PASSED AND APPROVED this _____ day of _____, 2014.

CITY OF EL PASO

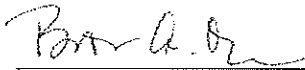
Oscar Leeser, Mayor

ATTEST:

Richarda D. Momsen, City Clerk

SIGNATURES CONTINUE ON FOLLOWING PAGE

APPROVED AS TO FORM:



Bertha Ontiveros
Senior Assistant City Attorney

APPROVED AS TO CONTENT AND FORM:



Lupe Cuellar
Real Estate Manager and Counsel

ORDINANCE NO. _____



BROCK & BUSTILLOS INC.
CONSULTING CIVIL ENGINEERS
LAND SURVEYORS

ROMAN BUSTILLOS, P.E.
President
RANDY P. BROCK, P.E.
Executive Vice President
SÉRGIO J. ADAME, P.E.
Vice President - Engineering
ISAAC CAMACHO, R.P.L.S.
Survey Manager
TBPE Reg No. F-737
TBPLS Reg No. 101314-00

METES AND BOUNDS DESCRIPTION

A 0.2594 acre parcel of land situate within the corporate limits of the City of El Paso, El Paso County, Texas as a portion of Lot 1, Block 2, International Industrial Center Unit 1 and being more particularly described by metes and bounds as follows:

BEGINNING at a concrete nail and shiner found for the corner common to Lots 1, 2, & 3, Block 2, International Industrial Center Unit 1 for the southeast corner of the parcel herein described;

THENCE, leaving the corner common to said lots 1, 2, & 3 and following the line common to Lots 1 and 2, South $81^{\circ}09'48''$ West, a distance of 280.05 feet to a concrete nail with plastic survey cap no. "TX 6223" set for an angle point of the parcel herein described;

THENCE, continuing along the line common to said lots 1 & 2, North $08^{\circ}50'12''$ West, a distance of 2.70 feet to a concrete nail with plastic survey cap no. "TX 6223" set for an angle point of the parcel herein described;

THENCE, continuing along the line common to said lots 1 & 2, South $81^{\circ}09'48''$ West, a distance of 58.54 feet to a concrete nail with plastic survey cap no. "TX 6223" set for the southwest corner of the parcel herein described;

THENCE, leaving the line common to said lots 1 & 2, North $08^{\circ}50'12''$ West, a distance of 17.30 feet to a concrete nail with plastic survey cap no. "TX 6223" set for an angle point of the parcel herein described;

THENCE, North $81^{\circ}09'48''$ East, a distance of 298.59 feet to the beginning of a tangent curve to the left;

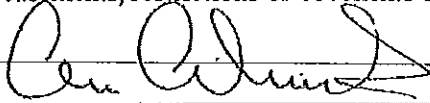
THENCE, along the arc of said curve to the left having a radius of 20.00 feet, a central angle of $90^{\circ}00'00''$, an arc length of 31.42 feet and whose long chord bears North $36^{\circ}09'48''$ East, a distance of 28.28 feet to the point of tangency;

THENCE, North $08^{\circ}50'12''$ West, a distance of 210.00 feet to a concrete nail with plastic survey cap no. "TX 6223" set on the southerly right-of-way line of Edgemere Boulevard (200 feet wide) for an angle point of the parcel herein described;

THENCE, following the southerly right-of-way line of Edgemere Boulevard, North $81^{\circ}09'48''$ East, a distance of 20.00 feet to a concrete nail with plastic survey cap no. "TX 6223" set for the northeast corner of the parcel herein described;

THENCE, leaving the southerly right-of-way line of said Edgemere Boulevard, South 08°50'12" East, a distance of 250.00 feet to the **POINT OF BEGINNING**.

Said parcel containing 0.2594 acres, 11,299.5 square, more or less, and being subject to all easements, restrictions or covenants of record.

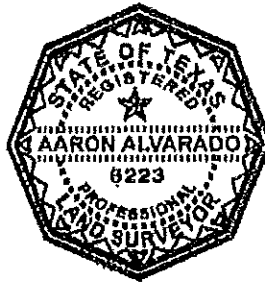


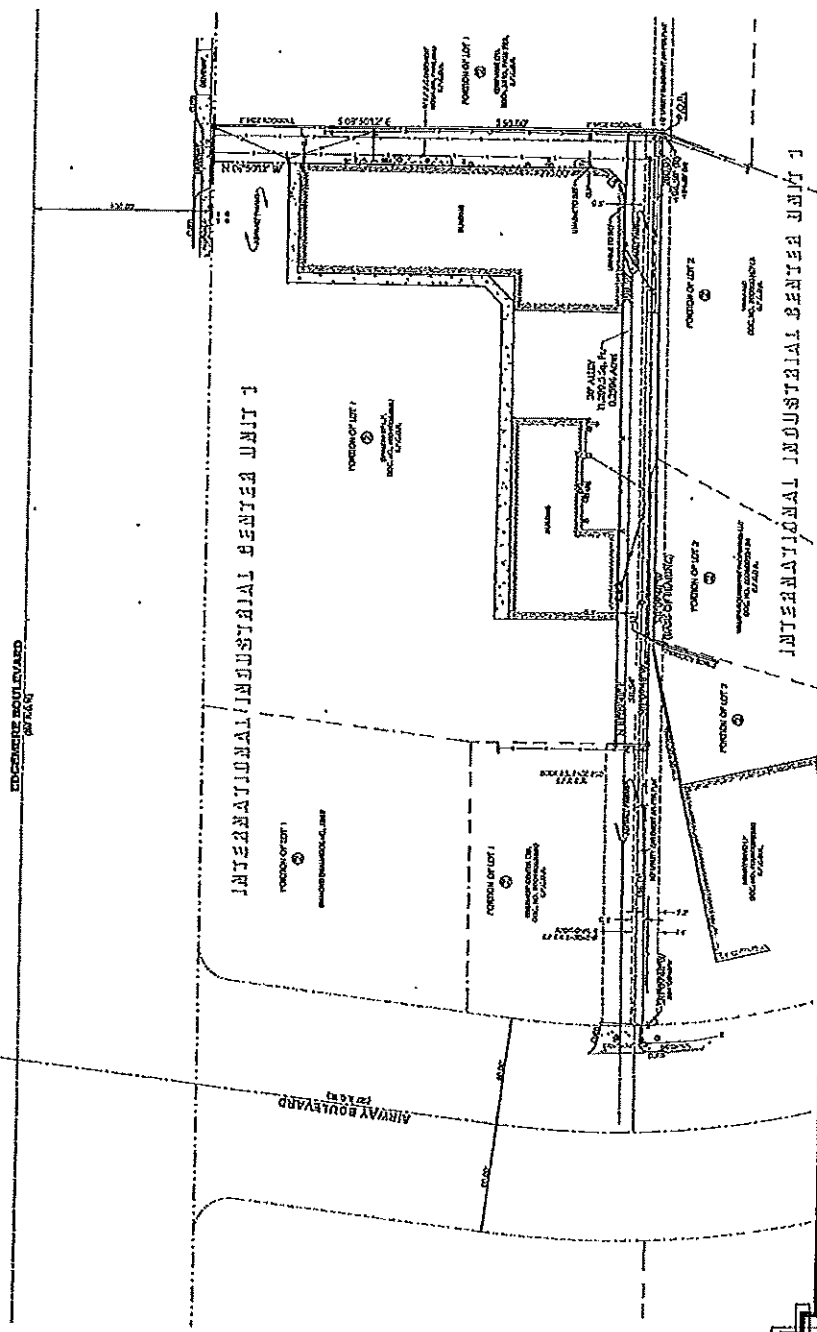
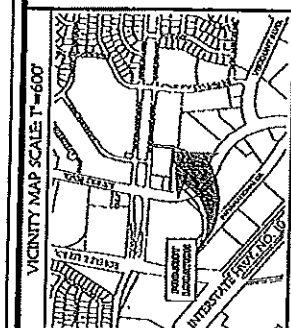
12-23-11

Aaron Alvarado, TX R. P. L. S. No. 6223

Date: December 23, 2011

05896-054-LOT 1 ALLEY.doc



[illegible]

SUPPLEMENTAL NOTES

REFERENCE DOCUMENTS:

CERTIFICATION:

[illegible]

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: _____, 2014

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): Attention: City Manager
300 N. Campbell
El Paso, Texas
El Paso County, Texas 79901-1196

Grantee: BP Shalom, L.P.

Grantee's Mailing Address (including county): P.O. Box 96
El Paso, Texas
El Paso County, Texas 79941-0096

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 0.2594 acre parcel of land consisting of a portion of Lot 1, Block 2, International Industrial Center, Unit 1, City of El Paso, El Paso County, Texas, and 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 GRANTOR, its successors and assigns, will not 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.

This Section is intended to create and does create a restrictive covenant and it is the intent of GRANTOR to convey to GRANTEE the GRANTOR's Interest subject to this restrictive covenant. Violation or breach of the restrictive covenant herein shall give the City of

El Paso, Texas the right to institute any proceeding at law or in equity to recover any sum due to the City of El Paso under the terms of this Covenant. If the City of El Paso institutes an action to recover such sum, GRANTEE and its successors in title agree to pay all costs of collection, including cost costs and reasonable attorney's fees.

RESERVATIONS FROM AND EXCEPTIONS TO CONVEYANCE AND WARRANTY:

1. This conveyance is subject to all easements, rights-of-way, and prescriptive rights whether of record or not, all presently recorded instruments, other than liens and conveyances, affecting the Property. The following additional conditions apply:
 - a. PSB shall be provided access, without limitation, to the utility easement within the Property.
 - b. After the closing, the Grantee shall be required to replace existing water meters on the Property with Radio Frequency Meters at Grantee's sole cost.
 - c. If Grantee install a gate limiting access to the Property, a dual lock shall be installed so that Grantor can enter onto the Property. The locks shall be at Grantor's sole cost.
2. The GRANTOR expressly reserves and retains for itself a perpetual easement over the Property for an El Paso Water Utilities water and sanitary sewer line, such easement being identified and further described in the survey attached hereto as the **Exhibit "B"** and incorporated herein by this reference for all purposes (hereinafter, the "Easement").

The purpose of this Easement is to reserve to the GRANTOR the right and privilege to enter and erect, construct, operate, inspect, access and maintain remove, and relocate, underground water and sanitary sewer facilities and all related water and sanitary sewer infrastructure with the right of access, ingress, egress, thereto for installation, construction, operation, inspection, repair, maintenance, replacement, renewal, removal or relocation within the Property thereof, necessary for the GRANTOR'S operation of its public utility. 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.

3. 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.
4. Grantee shall be responsible, at its own cost, to conduct any necessary archeological or environmental survey or studies.
5. 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, though, or under Grantor but not otherwise.
5. 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

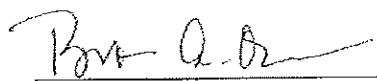
INFORMATION PERTAINING TO THE PROPERTY, OR THE OPERATION THEREOF, FURNISHED BY ANY BROKER, AGENT, ATTORNEY, EMPLOYEE OR OTHER PERSON. IT IS UNDERSTOOD AND AGREED THAT THE PURCHASE PRICE FOR THE PROPERTY REFLECTS THAT ALL OF THE PROPERTY IS SOLD BY THE CITY AND PURCHASED BY THE GRANTEE SUBJECT TO THE FOREGOING.

6. 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.

THE CITY OF EL PASO, TEXAS


Joyce A. Wilson, City Manager

APPROVED AS TO FORM:



Bertha Ontiveros
Senior Assistant City Attorney

APPROVED AS TO FORM AND CONTENT:



Lupe Cuellar, Real Estate
Manager and Counsel

ACKNOWLEDGEMENT ON FOLLOWING PAGE

ACKNOWLEDGEMENT

STATE OF TEXAS
COUNTY OF EL PASO

This instrument was acknowledged before me on the _____ day of _____,
2014, by Joyce A. Wilson, the City Manager of the City of El Paso, Texas.

Printed Name: _____
Notary Public, State of Texas



BROCK & BUSTILLOS INC.
CONSULTING CIVIL ENGINEERS
LAND SURVEYORS

ROMAN BUSTILLOS, P.E.
President
RANDY P. BROCK, P.E.
Executive Vice President
SERGIO J. ADAME, P.E.
Vice President - Engineering
ISAAC CAMACHO, R.P.L.S.
Survey Manager
TBPE Reg No. F-737
TBPLS Reg No. 101314-00

METES AND BOUNDS DESCRIPTION

A 0.2594 acre parcel of land situate within the corporate limits of the City of El Paso, El Paso County, Texas as a portion of Lot 1, Block 2, International Industrial Center Unit 1 and being more particularly described by metes and bounds as follows:

BEGINNING at a concrete nail and shiner found for the corner common to Lots 1, 2, & 3, Block 2, International Industrial Center Unit 1 for the southeast corner of the parcel herein described;

THENCE, leaving the corner common to said lots 1, 2, & 3 and following the line common to Lots 1 and 2, South $81^{\circ}09'48''$ West, a distance of 280.05 feet to a concrete nail with plastic survey cap no. "TX 6223" set for an angle point of the parcel herein described;

THENCE, continuing along the line common to said lots 1 & 2, North $08^{\circ}50'12''$ West, a distance of 2.70 feet to a concrete nail with plastic survey cap no. "TX 6223" set for an angle point of the parcel herein described;

THENCE, continuing along the line common to said lots 1 & 2, South $81^{\circ}09'48''$ West, a distance of 58.54 feet to a concrete nail with plastic survey cap no. "TX 6223" set for the southwest corner of the parcel herein described;

THENCE, leaving the line common to said lots 1 & 2, North $08^{\circ}50'12''$ West, a distance of 17.30 feet to a concrete nail with plastic survey cap no. "TX 6223" set for an angle point of the parcel herein described;

THENCE, North $81^{\circ}09'48''$ East, a distance of 298.59 feet to the beginning of a tangent curve to the left;

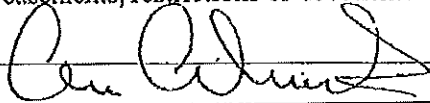
THENCE, along the arc of said curve to the left having a radius of 20.00 feet, a central angle of $90^{\circ}00'00''$, an arc length of 31.42 feet and whose long chord bears North $36^{\circ}09'48''$ East, a distance of 28.28 feet to the point of tangency;

THENCE, North $08^{\circ}50'12''$ West, a distance of 210.00 feet to a concrete nail with plastic survey cap no. "TX 6223" set on the southerly right-of-way line of Edgemore Boulevard (200 feet wide) for an angle point of the parcel herein described;

THENCE, following the southerly right-of-way line of Edgemore Boulevard, North $81^{\circ}09'48''$ East, a distance of 20.00 feet to a concrete nail with plastic survey cap no. "TX 6223" set for the northeast corner of the parcel herein described;

THENCE, leaving the southerly right-of-way line of said Edgemere Boulevard, South 08°50'12" East, a distance of 250.00 feet to the *POINT OF BEGINNING*.

Said parcel containing 0.2594 acres, 11,299.5 square, more or less, and being subject to all easements, restrictions or covenants of record.



12-23-11

Aaron Alvarado, TX R. P. L. S. No. 6223

Date: December 23, 2011

05896-054-LOT 1 ALLEY.doc



INTERNATIONAL MONETARY FUND

Exhibit B
page 2 of 2

EASEMENT			
LINE	BEARING	LENGTH	AREA
11	N85°52'13"W	2.70	
12	N00°52'12"E	17.50	
13	N81°02'10"E	10.00	

CURVE DATA					
CURVE	RADIUS	LENGTH	AREA	CH. BEING	CHORD
C1	10.00	31.42	870.00	N85°02'14"E	28.28

LEGEND

PROJECT BOUNDARY	_____
LOT LINE	_____
RIGHT-OF-WAY LINE	_____
CONTIGUOUS RIGHT-OF-WAY	_____
EASEMENT LINE	_____
SEWAGE SEWER LINE	_____
WATER LINE	_____
OVERHEAD ELECTRIC LINE	_____
CHAIN LINK FENCE	_____
SEWAGE SEWER MANHOLE	⊙
CLEANOUT	○
GREASE TRAP	○
WATER METER	⊙
WATER METER VALVE	⊙
WATER METER VALVE BOX	⊙
GAS METER	⊙
ELECTRIC METER	⊙
ELECTRIC TRAFFIC SIGNAL BOX	⊙
POSTMOUNTED POLE	⊙
LIGHT FIXTURE/STANDARD	⊙
DRY HATCH	⊙
ROLLUP	⊙
CONCRETE AREA	⊙
EXISTING BUILDING	⊙
FOUND RAIL SHINK	⊙
SET CONCRETE RAIL IN PLASTIC BARRIER NO. "X" 6223 (BASED ON OTHERS IN LOT)	⊙
NUCLEAR POWER	⊙

SUPPLEMENTAL NOTES

1. BASIS OF BEARING IS THE ORIGINAL LOT LINE CORNER TO LOTS 1, 2 & 3, BLOCK 2, SHOWN ON THE SURVEY PLAT FOR STEVENSON INDUSTRIAL CENTER UNIT 1, (AS SHOWN HEREIN).
2. SUBJECT PROPERTY IS LOCATED WITHIN ZONE "C", AS DETAILED ON THE CITY OF EL PASO FLOOD INSURANCE RATE MAP PANEL NO. 400214 D0339, DATED OCTOBER 15, 1982. ZONE "C" DESIGNATES AREAS OF MINIMAL FLOODING.
3. SUBJECT PROPERTY IS ZONED "C-1" (COMMERCIAL DISTRICT) AS DESIGNATED ON CITY OF EL PASO PLANNING DIVISION G.S. ZONING MAP FOLDED AT THE PLAT OFFICIALS OFFICE.
4. LOT 1, 2 & 3, BLOCK 2, SHOWN ON THE SURVEY PLAT FOR STEVENSON INDUSTRIAL CENTER UNIT 1, (AS SHOWN HEREIN).


REFERENCE DOCUMENTS

1. INTERNATIONAL INDUSTRIAL CENTER UNIT 1 PLAT IN BOOK 18, PAGE 5 OF THE EL PASO COUNTY PLAT RECORDS.
2. INTERNATIONAL INDUSTRIAL CENTER UNIT 1 PLAT IN BOOK 23, PAGE 24 OF THE EL PASO COUNTY PLAT RECORDS.
3. INTERNATIONAL INDUSTRIAL CENTER UNIT 1 PLAT IN BOOK 61, PAGE 100 OF THE EL PASO COUNTY PLAT RECORDS.
4. BOUNDARY AND AREA/CONTENT SURVEY FOR ALL OF LOT 6, NORTHEAST 20 OF LOT 3 & 5, EASTLY 370.04 OF LOT 1, BLOCK 2, INTERNATIONAL INDUSTRIAL CENTER UNIT 1 BY KATONACHA EXPLORATION COMPANY, DATED 2011, 1992.

CERTIFICATION:

I HEREBY CERTIFY THAT THIS SURVEY PLAT AND THE ACTUAL SURVEY ON THE GROUND UPON WHICH IT IS BASED WERE PREPARED BY ME OR UNDER MY DIRECT SUPERVISION, THAT I AM A LICENSED SURVEYOR, THAT THIS SURVEY MEETS THE MINIMUM STANDARDS FOR SURVEYS IN THE STATE OF TEXAS, AND THAT IT IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

[Signature] 12-23-11
ALAN ALVARADO, TEXAS REG. NO. 6223

	DRAWN BY: J.M. CHECKED BY: A.A. SCALE: 1"=30' DATE: 12-23-2011 JOB NO.: 05515-054	BOUNDARY & IMPROVEMENT SURVEY A PORTION OF LOT 1, BLOCK 2 INTERNATIONAL INDUSTRIAL CENTER UNIT 1, CITY OF EL PASO, EL PASO COUNTY, TEXAS.	
	REVISION _____ _____ _____	DATE _____ _____ _____	SHEET 1 OF 1
	BROCK & BUSTILLOS INC. CONSULTING CIVIL ENGINEERS LAND SURVEYORS TEXAS REG. NO. P-737		
	417 EXECUTIVE CENTER EL PASO, TEXAS 79902 WWW.BROCK-BUSTILLOS.COM PH (915) 542-1500 FAX (915) 542-2657		

STATE OF TEXAS §

§

CONTRACT OF SALE

COUNTY OF EL PASO §

This Contract of Sale, hereinafter referred to as the "Agreement," is entered into this _____ day of _____, 2014, 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 **EP Shalom, LP** 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 0.2594 acre parcel of land and being a portion of Lot 1, Block 2, International Industrial Center, Unit 1, City of El Paso, El Paso County, Texas, and 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 or its Public Service Board, to the extent that such easements do not otherwise interfere with the Buyers use of the property. The following additional conditions apply:
 - 1.3.1 PSB shall be provided access, without limitation, to the utility easement within the Property.

1.3.2 After the closing, the Grantee shall be required to replace existing water meters on the Property with Radio Frequency Meters at Grantee's sole cost.

1.3.3 If Grantee install a gate limiting access to the Property, a dual lock shall be installed so that Grantor can enter onto the Property. The locks shall be at Grantor's sole cost.

1.4 **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. The Buyer shall not have the right to drill a well and produce therefrom any quantity of groundwater.

2. **Amount of Payment of Purchase Price.** The purchase price for the property shall be THIRTEEN THOUSAND ONE HUNDRED DOLLARS (\$13,100.00) plus buyer will pay all closing cost including cost of survey and appraisals as identified in Paragraph 5.2.

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 will require a cash deposit of in the amount of \$1,000.00 which will be credited to the purchase price at the time of closing. Earnest Money will be deposited in an interest bearing account with Stewart Title Company, 415 North Mesa Street, El Paso, Texas 79901.

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.

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. The Buyer at its expense will order a title commitment ("Commitment") from Stewart 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 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. If the PSB does not eliminate or modify any unacceptable matter to the reasonable satisfaction of the Buyer,

then in said event, the Buyer can either accept the matter in its then condition and proceed to close or otherwise terminate the Agreement and receive the return of its earnest money. 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, or otherwise.
- 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 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 will 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 that it has any and all liability to third parties that have any claims against the PSB with respect to its ownership of the Property.
- 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. See paragraph 1.3 referring to proposed utility easement.

4.9 "AS IS, WHERE IS." THIS CONTRACT 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 FOR THE WARRANTY OF TITLE, IN THE PSB'S CONVEYANCE DEED AND THE REPRESENTATION AND WARRANTIES OF THE PSB 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, PROVIDED, HOWEVER, IF THE ENVIRONMENTAL PROBLEM WAS DIRECTLY CAUSED BY THE PSB, THEN IN SUCH EVENT, THE PSB SHALL RETAIN RESPONSIBILITY WITH RESPECT THERETO, OTHER THAN AS PROVIDED IN THE FOREGOING SENTENCE. 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.** 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 hereto 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 Stewart Title Company on or before the later of (i) thirty (30) days from the Effective Date; or (ii) thirty (30) days after the execution of this Agreement by the PSB and City Manager of the City of El Paso, who will sign this contract and the special warranty deed upon passage by the city council of a municipal ordinance authorizing the same, 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, if the Buyer elects to purchase an Owner's Policy of Title Insurance.

(c) Real Estate Appraisal and Survey fees shall be paid by 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, easements, 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, (ii) the standard printed exceptions contained in the usual form of the Owner's Policy, and (iii) any other exceptions set forth in the Title Policy which the Buyer has approved pursuant to Paragraph 3 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, or the termination of this Agreement in accordance with its terms, the PSB agrees to absorb the costs the PSB may have incurred in preparation for 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, or the termination of this Agreement in accordance with its terms, the PSB may seek specific performance of this agreement.

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: John E. Balliew, P.E.
President/CEO
El Paso Water Utilities Public Service Board
1154 Hawkins Blvd.
El Paso, Texas 79925

Buyer: Tanny Berg, EP Shalom, LP
P.O. Box 96
El Paso, Texas 79941-0096

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.

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 Contract, 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 Section 2B of the Texas Real Estate License Act, the Buyer is hereby advised that it should be furnished with or obtains a policy of title insurance or have an abstract covering the Property examined by an attorney of its own selection.

8.6 **Effective Date.** As used herein, "Effective Date" shall mean the date of the approval of City Council of an Ordinance authorizing the sale of the Property.

The above instrument, together with all conditions thereto is hereby executed by the City this _____ day of _____, 2014.

SELLER:

EL PASO WATER UTILITIES
PUBLIC SERVICE BOARD

By: Marcela Navarrete
Marcela Navarrete, Vice President
Strategic, Financial and Management
Services

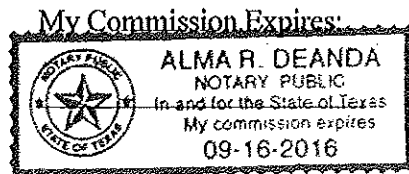
APPROVED AS TO CONTENT AND FORM:

Lupe Cuellar
Real Estate Manager Counsel

ACKNOWLEDGMENTS

STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on the 10th day of April, 2014, by Marcela Navarrete, Vice President, Strategic, Financial and Management Services of El Paso Water Utilities Public Service.




Alma R. De Anda
Notary Public, State of Texas

SIGNATURES CONTINUE ON FOLLOWING PAGE

CITY OF EL PASO
A Municipal Corporation

By _____
Joyce A. Wilson, City Manager

APPROVED AS TO FORM:


Bertha Ontiveros,
Senior City Attorney

STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on the _____ day of _____,
2014, by Joyce Wilson, City Manager of the City of El Paso.

My Commission Expires:

Notary Public, State of Texas

SIGNATURES CONTINUE ON FOLLOWING PAGE

BUYER:

EP Shalom, LP

By: EP Shalom GP, LLC, General Partner

Tanny Berg, Manager

APPROVED AS TO FORM

Bernard D. Felson
Attorney at Law

STATE OF TEXAS)

COUNTY OF EL PASO)

This instrument was acknowledged before me on the 1st day of May, 2014 by Tanny Berg, Manager of EP Shalom, LP, a Texas Limited Partnership of behalf of the Limited Partnership.

My Commission Expires:

4-10-2018

Notary Public, State of Texas



CITY CLERK DEPT.
2014 MAY -8 PM 4:34



BROCK & BUSTILLOS INC.
CONSULTING CIVIL ENGINEERS
LAND SURVEYORS

ROMAN BUSTILLOS, P.E.
President

RANDY P. BROCK, P.E.
Executive Vice President

SERGIO J. ADAME, P.E.
Vice President - Engineering

ISAAC CAMACHO, R.P.L.S.
Survey Manager

TBPE Reg No. F-737
TBPLS Reg No. 101314-00

METES AND BOUNDS DESCRIPTION

A 0.2594 acre parcel of land situate within the corporate limits of the City of El Paso, El Paso County, Texas as a portion of Lot 1, Block 2, International Industrial Center Unit 1 and being more particularly described by metes and bounds as follows:

***BEGINNING** at a concrete nail and shiner found for the corner common to Lots 1, 2, & 3, Block 2, International Industrial Center Unit 1 for the southeast corner of the parcel herein described;*

***THENCE**, leaving the corner common to said lots 1, 2, & 3 and following the line common to Lots 1 and 2, South 81°09'48" West, a distance of 280.05 feet to a concrete nail with plastic survey cap no. "TX 6223" set for an angle point of the parcel herein described;*

***THENCE**, continuing along the line common to said lots 1 & 2, North 08°50'12" West, a distance of 2.70 feet to a concrete nail with plastic survey cap no. "TX 6223" set for an angle point of the parcel herein described;*

***THENCE**, continuing along the line common to said lots 1 & 2, South 81°09'48" West, a distance of 58.54 feet to a concrete nail with plastic survey cap no. "TX 6223" set for the southwest corner of the parcel herein described;*

***THENCE**, leaving the line common to said lots 1 & 2, North 08°50'12" West, a distance of 17.30 feet to a concrete nail with plastic survey cap no. "TX 6223" set for an angle point of the parcel herein described;*

***THENCE**, North 81°09'48" East, a distance of 298.59 feet to the beginning of a tangent curve to the left;*

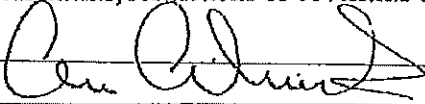
***THENCE**, along the arc of said curve to the left having a radius of 20.00 feet, a central angle of 90°00'00", an arc length of 31.42 feet and whose long chord bears North 36°09'48" East, a distance of 28.28 feet to the point of tangency;*

***THENCE**, North 08°50'12" West, a distance of 210.00 feet to a concrete nail with plastic survey cap no. "TX 6223" set on the southerly right-of-way line of Edgemere Boulevard (200 feet wide) for an angle point of the parcel herein described;*

***THENCE**, following the southerly right-of-way line of Edgemere Boulevard, North 81°09'48" East, a distance of 20.00 feet to a concrete nail with plastic survey cap no. "TX 6223" set for the northeast corner of the parcel herein described;*

THENCE, leaving the southerly right-of-way line of said Edgemere Boulevard, South 08°50'12" East, a distance of 250.00 feet to the *POINT OF BEGINNING*.

Said parcel containing 0.2594 acres, 11,299.5 square, more or less, and being subject to all easements, restrictions or covenants of record.



12-23-11

Aaron Alvarado, TX R. P. L. S. No. 6223

Date: December 23, 2011

05896-054-LOT 1 ALLEY.doc



