

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

**DEPARTMENT:** Development Services Department, Planning Division

**AGENDA DATE:** Introduction: November 10, 2009  
Public Hearing: December 1, 2009

**CONTACT PERSON/PHONE:** Linda Castle, (915) 541-4029, castlelj@elpasotexas.gov

**DISTRICT(S) AFFECTED:** 1

**SUBJECT:**

An Ordinance releasing conditions placed on property by Ordinance No. 9364 which changed the zoning on a portion of Lots 2 and 3, Block 2, Plexxar South Unit 2, Tract 1M, S.J. Larkin Survey 264, Tracts 1B7 and 1B8, S.J. Larkin Survey 266 and Tract 6E, WH Lenox Survey 242, City of El Paso, El Paso County, Texas. The penalty is as provided for in Chapter 20.24 of the El Paso City Code. ZON09-00047.

**BACKGROUND / DISCUSSION:**

N/A

**PRIOR COUNCIL ACTION:**

N/A

**AMOUNT AND SOURCE OF FUNDING:**

N/A

**BOARD / COMMISSION ACTION:**

Development Coordinating Committee (DCC) – Unanimous Approval Recommendation  
City Plan Commission (CPC) – Approval Recommendation (5-0)

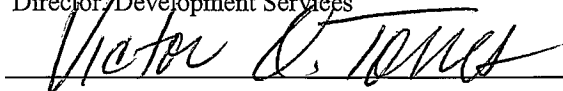
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\*\*\*\*\*REQUIRED AUTHORIZATION\*\*\*\*\*

**LEGAL:** (if required) N/A

**FINANCE:** (if required) N/A

**DEPARTMENT HEAD:** Victor Q. Torres  
Director, Development Services



**APPROVED FOR AGENDA:**

**CITY MANAGER:** \_\_\_\_\_

**DATE:** \_\_\_\_\_

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE RELEASING CONDITIONS PLACED ON PROPERTY BY ORDINANCE NO. 9364 WHICH CHANGED THE ZONING ON A PORTION OF LOTS 2 AND 3, BLOCK 2, PLEXXAR SOUTH UNIT 2, TRACT 1M, S.J. LARKIN SURVEY 264, TRACTS 1B7 AND 1B8, S.J. LARKIN SURVEY 266 AND TRACT 6E, WH LENOX SURVEY 242, CITY OF EL PASO, EL PASO COUNTY, TEXAS. THE PENALTY IS AS PROVIDED FOR IN CHAPTER 20.24 OF THE EL PASO CITY CODE.**

**WHEREAS**, the zoning of the property described as *a portion of Lots 2 and 3, Block 2, Plexxar South Unit 2, Tract 1M, S.J. Larkin Survey 264, Tracts 1B7 and 1B8, S.J. Larkin Survey 266 and Tract 6E, WH Lenox Survey 242, City of El Paso, El Paso County, Texas*, was changed by Ordinance No. 9364, approved by City Council on September 13, 1988; and,

**WHEREAS**, the rezoning was subject to the following zoning conditions:

2. *First Party shall contribute money toward the construction of two (2) entrance/exit ramps at the south side of Artcraft Road and Interstate 10 in El Paso.*
3. *Prior to final approval of any subdivision plats in Parcel 2, the First Party must dedicate a fire station site to Second Party. The fire station site must have one hundred seventy five (175) feet of frontage on the proposed Resler Drive at an intersection with a dedicated side street and a depth of one hundred fifty eight (158) feet. The exact located of the site shall be determined by the El Paso Fire Department and First Party.*
4. *A 75-foot wide Special Building Setback Line (S.B.S.L.) shall be established along the north portions of Parcels, 1C, 2A, 6 and 6A, adjacent to Woodrow Bean Transmountain Drive. In addition, First Party must landscape the S.B.S.L. area in accordance with the landscaping plan, which is on file with the Department of Planning, Research and Development, prior to the issuance of any building permits for said parcels.*

**WHEREAS**, placement of such conditions was necessitated by and attributable to the increased intensity of use generated by the change of zoning; and,

**WHEREAS**, the owner (applicant) submitted an application requesting the removal of the above conditions on the above described property; and,

**WHEREAS**, a public hearing regarding amendment of the conditions was held before the City Plan Commission, and the Commission recommended approval of the release; and,

**WHEREAS**, the City Council of the City of El Paso has determined that the release of the above conditions will protect the best interest, health, safety, and welfare of the public in general.

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

That zoning conditions imposed by Ordinance No. 9364 dated September 13, 1988 release three zoning conditions on the portion of land identified in Exhibit "A" because the conditions are no longer necessary.

2. *First Party shall contribute money toward the construction of two (2) entrance/exit ramps at the south side of Artcraft Road and Interstate 10 in El Paso. (Has been satisfied)*
3. *Prior to final approval of any subdivision plats in Parcel 2, the First Party must dedicate a fire station site to Second Party. The fire station site must have one hundred seventy five (175) feet of frontage on the proposed Resler Drive at an intersection with a dedicated side street and a depth of one hundred fifty eight (158) feet. The exact located of the site shall be determined by the El Paso Fire Department and First Party. (Has been satisfied)*
4. *A 75-foot wide Special Building Setback Line (S.B.S.L.) shall be established along the north portions of Parcels, 1C, 2A, 6 and 6A, adjacent to Woodrow Bean Transmountain Drive. In addition, First Party must landscape the S.B.S.L. area in accordance with the landscaping plan, which is on file with the Department of Planning, Research and Development, prior to the issuance of any building permits for said parcels. (Does not apply to this property)*

Except as herein amended, Ordinance 9364 shall remain in full force and effect.

**PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2009.**

**THE CITY OF EL PASO**

\_\_\_\_\_  
John F. Cook  
Mayor

**ATTEST:**

\_\_\_\_\_  
Richarda Duffy Momsen  
City Clerk

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Lupe Cuellar  
Assistant City Attorney

**APPROVED AS TO CONTENT:**

\_\_\_\_\_  
Mathew S. McElroy  
Deputy Director – Planning  
Development Services Department

Property description: A 40.332-acre portion of Lots 2 and 3, Block 2, Plexxar South Unit 2, Tract 1M, S.J. Larkin Survey 264, Tracts 1B7 and 1B8, S.J. Larkin Survey 266 and Tract 6E, W.H. Lenox Survey 242, El Paso, El Paso County, Texas

#### METES AND BOUNDS DESCRIPTION

The parcel of land herein described is a 40.332-acre portion of Lots 2 and 3, Block 2, Plexxar South Unit 2 (Book 78, Page 65, Plat Records, El Paso County, Texas), Tract 1M, S.J. Larkin Survey 264, Tracts 1B7 and 1B8, S.J. Larkin Survey 266 and Tract 6E, W.H. Lenox Survey 242, El Paso, El Paso County, Texas, and is more particularly described by metes and bounds as follows:

**COMMENCING** at a city monument at the centerline intersection of Paseo Del Norte Boulevard (120-foot right-of-way, El Paso West Unit One, Book 57, Page 5, Plat Records, El Paso County, Texas) and Northwestern Drive (90-foot right-of-way, El Paso West Unit One, Book 57, Page 5, Plat Records, El Paso County, Texas); Thence, South 08°03'06" East, along the centerline of Northwestern Drive, a distance of 670.05 feet, from which a city monument at the centerline P.I. of Northwestern Drive bears South 08°03'06" East, a distance of 892.73 feet; Thence, North 81°56'54" East, a distance of 45.00 feet to a 5/8" rebar with cap marked "RPLS 4178" set at the intersection of the easterly right-of-way of Northwestern Drive and the northerly boundary of that certain parcel of land described April 30, 2002, in Book 4241, Page 1995, Deed Records, El Paso County, Texas, for the **POINT OF BEGINNING** of this description;

**THENCE**, North 83°04'42" East, along said boundary, a distance of 1304.58 feet to a 5/8" rebar with cap marked "RPLS 4178" set on the westerly right-of-way of Resler Drive (width varies; January 8, 2002, Book 4158, Page 910, Deed Records, El Paso County, Texas);

**THENCE**, along said right-of-way, the following courses:

South 13°33'03" East, a distance of 35.00 feet to a set 5/8" rebar with cap marked "RPLS 4178";

North 76°26'57" East, a distance of 60.00 feet to a set chiseled "X";

South 13°33'03" East, a distance of 377.00 feet to a set chiseled "X";

South 76°26'57" West, a distance of 50.00 feet to a set 5/8" rebar with cap marked "RPLS 4178";

South 13°33'03" East, a distance of 150.00 feet to a set 5/8" rebar with cap marked "RPLS 4178";

North 76°26'57" East, a distance of 50.00 feet to a set chiseled "X";

South 13°33'03" East, a distance of 13.37 feet to a set chiseled "X";

890.11 feet along the arc of a curve to the left, having a radius of 1982.50 feet, a central angle of 25°43'30", and a chord which bears South 26°24'48" East, a distance of 882.65 feet to a set chiseled "X";

**THENCE**, 38.44 feet leaving said right-of-way and along the arc of a curve to the right, having a radius of 25.00 feet, a central angle of 88°06'30", and a chord which bears South 04°46'42" West, a distance of 34.77 feet to a chiseled "X" set on the northerly right-of-way of Helen of Troy Drive (90-foot right-of-way, West Hills Unit Twenty Two Amending Subdivision No. 2, Book 74, Pages 17 and 17A, Plat Records, unrecorded deed of dedication, April 4, 2000, and an unrecorded City of El Paso resolution dated April 4, 2000);

**THENCE**, South 48°49'57" West, along said right-of-way, a distance of 276.08 feet to a 5/8" rebar with cap marked "RPLS 4178" set on the easterly boundary of that certain parcel of land described December 15, 2004, in Clerk's File No. 20040116596, El Paso County Clerk's Records, El Paso County, Texas;

**THENCE**, North 35°16'43" West, along said boundary, a distance of 463.09 feet to a concrete nail with flagging set on the northerly boundary of said parcel;

**THENCE**, South 89°53'58" West, along said boundary, a distance of 633.82 feet to a set 5/8" rebar with cap marked "RPLS 4178";

**THENCE**, South 69°20'21" West, continuing along said boundary, a distance of 209.25 feet to a concrete nail with flagging set on the common boundary between Plexxar South Unit 2 and Westport Unit Two (Book 66, Page 38, Plat Records, El Paso County, Texas);

THENCE, South  $70^{\circ}10'36''$  West, along said boundary, a distance of 350.00 feet to a 5/8" rebar with cap marked "RPLS 4178" set on the easterly right-of-way of Northwestern Drive;

THENCE, North  $19^{\circ}49'23''$  West, along said right-of-way, a distance of 226.78 feet to a set 5/8" rebar with cap marked "RPLS 4178";

THENCE, 249.84 feet continuing along said right-of-way and along the arc of a curve to the right, having a radius of 1216.04 feet, a central angle of  $11^{\circ}46'18''$ , and a chord which bears North  $13^{\circ}56'14''$  West, a distance of 249.40 feet to a set 5/8" rebar with cap marked "RPLS 4178";

THENCE, North  $08^{\circ}03'06''$  West, continuing along said right-of-way, a distance of 762.68 feet to the POINT OF BEGINNING of this description.

Said parcel of land contains 40.332 acres (1,756,873 square feet) of land more or less.

NOTE: A PLAT OF EVEN DATE HERewith ACCOMPANIES THIS DESCRIPTION.

ROBERT SEIPEL ASSOCIATES, INC.  
Professional Land Surveyors



Robert R. Seipel, R.P.L.S.  
President  
Texas License No. 4178

Job Number 080033  
August 21, 2008



## MEMORANDUM

**DATE:** October 26, 2009

**TO:** The Honorable Mayor and City Council  
Joyce A. Wilson, City Manager

**FROM:** Linda Castle, Senior Planner

**SUBJECT: ZON09-00047**

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The City Plan Commission (CPC), on October 8, 2009, voted **5-0** to recommend **APPROVAL** of releasing Special Contract Conditions 2, 3 and 4 that were placed on the subject property by Ordinance No. 9364 dated August 9, 1988.

The CPC found that the release of these conditions is in conformance with The Plan for El Paso and the projected land use map. The CPC also determined that the release of conditions protects the best interest, health, safety and welfare of the public in general; is compatible with adjacent land uses; and, will have no effect on the natural environment, social economic conditions, and property values in the vicinity and the city as a whole.

There was **NO OPPOSITION** to this request.

**Attachment:** Staff report



*City of El Paso – City Plan Commission Staff Report*

**Case No:** ZON09-00047  
**Application Type:** Zoning Condition Release  
**CPC Hearing Date:** October 08, 2009  
**Staff Planner:** Angelica Bryant, 915-541-4904, [bryantam@elpasotexas.gov](mailto:bryantam@elpasotexas.gov)

**Location:** North of Helen of Troy Drive between Resler Drive and Northwestern Drive  
**Legal Description:** A portion of Lots 2 and 3, Block 2, Plexxar South Unit 2, Tract 1M, S.J. Larkin Survey 264, Tracts 1B7 and 1B8, S.J. Larkin Survey 266 and Tract 6E, WH Lenox Survey 242, City of El Paso, El Paso County, Texas  
**Acreage:** 40.332 acres

**Rep District:** 1  
**Zoning:** C-4/sc (Commercial/special contract)  
**Existing Use:** Vacant  
**Request:** Release zoning conditions 2, 3 and 4 imposed by Ordinance 9364, dated September 13, 1988

**Property Owner:** Plexxar Capital Ltd  
**Representative:** Brent D. Harris

**SURROUNDING ZONING AND LAND USE**

**North:** C-4/sc (Commercial/special contract) / Vacant  
**South:** C-3 (Commercial), C-4/sc (Commercial/special contract) / Industrial and Vacant  
**East:** C-3/c (Commercial/conditions), R-3A (Residential) / Vacant and Residential  
**West:** M-1 (Light Manufacturing) / Vacant

**Plan for El Paso Designation:** Industrial (Northwest Planning Area)

**Nearest Park:** Proposed Park (2,153 Feet)

**Nearest School:** Hut Brown Middle (551 Feet)

**NEIGHBORHOOD ASSOCIATIONS**

Save the Valley Neighborhood Association  
Coronado Neighborhood Association  
Upper Mesa Hills Neighborhood Association  
Mountain Arroyo Neighborhood Association  
Upper Valley Improvement Association

**NEIGHBORHOOD INPUT**

Notices of the October 8, 2009 City Plan Commission hearing were mailed out to property owners within 300 feet of the subject property on September 22, 2009. The Planning Division has received no responses to the application for zoning conditions release.

**APPLICATION DESCRIPTION**

The total property consists of 34.64 acres and is vacant . . The request is to release three zoning conditions imposed by Ordinance 9364:

2. *First Party shall contribute money toward the construction of two (2) entrance/exit ramps at the south*



side of Artcraft Road and Interstate 10 in El Paso. (**Has been satisfied**)

3. Prior to final approval of any subdivision plats in Parcel 2, the First Party must dedicate a fire station site to Second Party. The fire station site must have one hundred seventy five (175) feet of frontage on the proposed Resler Drive at an intersection with a dedicated side street and a depth of one hundred fifty eight (158) feet. The exact located of the site shall be determined by the El Paso Fire Department and First Party. (**Has been satisfied**)
4. A 75-foot wide Special Building Setback Line (S.B.S.L.) shall be established along the north portions of Parcels 1C, 2A, 6 and 6A, adjacent to Woodrow Bean Transmountain Drive. In addition, First Party must landscape the S.B.S.L. area in accordance with the landscaping plan, which is on file with the Department of Planning, Research and Development, prior to the issuance of any building permits for said parcels. (**Does not apply to this property**)

#### **DEVELOPMENT COORDINATING COMMITTEE RECOMMENDATION**

The Development Coordinating Committee provides the following comments:

The DCC recommends **APPROVAL** of releasing the above referenced conditions attached to Ordinance 9364 for the subject property, as conditions 2 and 3 have been satisfied and condition 4 does not apply to this property.

#### **DEVELOPMENT SERVICES DEPARTMENT-PLANNING DIVISION RECOMMENDATION**

Planning recommends **APPROVAL** of releasing the above referenced conditions attached to Ordinance 9364 for the subject property, as conditions 2 and 3 have been satisfied and condition 4 does not apply to this property.

#### **The Plan for El Paso –City-wide Land Use Goals**

All applications for zoning condition release shall demonstrate compliance with the following criteria:

- a. Goal: provide designated locations for industrial development that do not adversely affect the health, safety, and welfare of the community and where essential infrastructure is available to serve development.

#### **Development Services – Engineering:**

There are no objections to the special conditions release request.

- ADA accessible Sidewalks, Wheel-chair ramp(s), and Driveway(s) will be required.\*
- Grading plan and permit shall be required.\*
- Storm Water Pollution Prevention Plan and/or permit required.\*
- Drainage plans must be approved by the Development Services Department, Engineering Section.\*
- Coordination with TXDOT.
- No water runoff allowed outside the proposed development boundaries, (On-site ponding required)\*
- Additional Comments: Site location is located within a Special Flood Hazard Area, Flood Zones A1, B, Panel 480214 0016 C.

**\* This requirement will be applied at the time of development.**

#### **Engineering Department - Traffic Division**

The Engineering Department – Traffic Division has no objections to the zoning condition release request.

#### **Fire Department**

No opposition to the request at this time.

#### **El Paso Police Department**

There are no objections to the special conditions release request.

**El Paso Water Utilities**

EPWU does not object to this request.

**Sun Metro**

There are no objections to the special conditions release request.

**CITY PLAN COMMISSION OPTIONS**

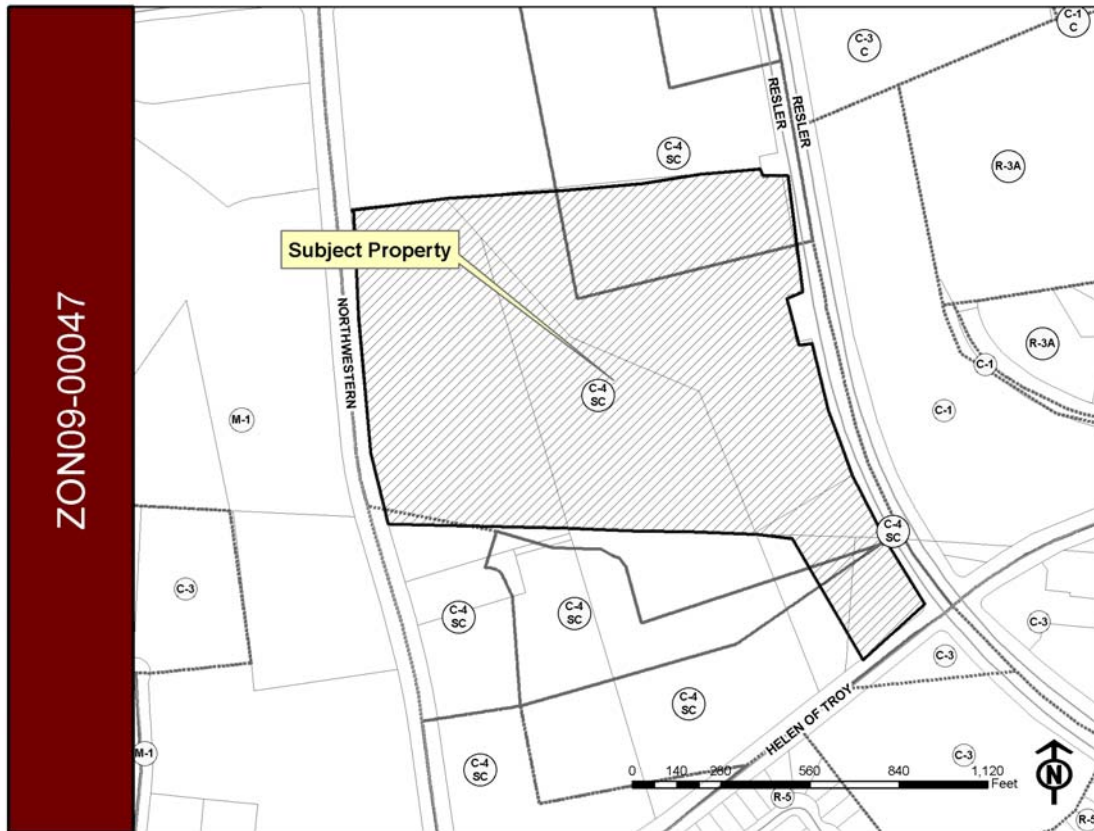
The City Plan Commission may consider the following options and additional options that it identifies when reviewing the zoning condition release application:

1. Recommend approval of the application finding that the zoning condition release is in conformance with the review criteria of The Plan for El Paso as reflected in CPC report or other criteria that the CPC identifies from the Plan
2. Recommend approval of the application with modifications to bring the zoning condition release into conformance with the review criteria in The Plan for El Paso as reflected in CPC report or other criteria from the Plan as identified by the CPC.
3. Deny the application finding that the zoning condition release does not conform to the review criteria in The Plan for El Paso as reflected in CPC report or other criteria identified from the Plan by the CPC.

**Attachments**

1. Zoning Map
2. Aerial Map
3. Ordinance 9364

ATTACHMENT 1: LOCATION MAP



ATTACHMENT 2: AERIAL MAP



ATTACHMENT 3: ORDINANCE 9364 – CONDITIONS

AN ORDINANCE CHANGING THE ZONING OF  
A PORTION OF NELLIE D. MUNDY SURVEYS NO. 239,  
240 AND 243; A PORTION OF TRACTS 61 AND 62, W.H. GLENN  
SURVEY NO. 241; A PORTION OF TRACT 1B, S.J. LARKIN  
SURVEY NO. 266; A PORTION OF TRACT 6, W.H. LENOX SURVEY  
NO. 432; AND PORTIONS OF TRACTS 1 AND 8, S.A. AND  
M.G. SURVEY NO. 266.

THE PENALTY BEING AS PROVIDED IN  
SECTION 20.68.010 OF THE EL PASO CITY CODE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the zoning of a portion of Nellie D. Mundy Surveys No. 239, 240 and 243; a portion of Tracts 61 and 62, W.H. Glenn Survey No. 241; a portion of Tract 1B, S.J. Larkin Survey No. 266; a portion of Tract 6, W.H. Lenox Survey No. 432; and portions of Tracts 1 and 8, S.A. and M.G. Survey No. 266, as more particularly described by metes and bounds in the attached Exhibit "A" (pages 1 - 15), be changed as follows:

Parcel No. 1: from R-3 (Residential) to C-4  
(Commercial) - 8.425 acres  
Parcel No. 1C: from PMD (Planned Mountain District)  
to C-4 (Commercial) - 7.581 acres  
Parcel No. 2: from R-3 (Residential) to M-1 (Light  
Manufacturing) - 273.607 acres  
Parcel No. 2A: from PMD (Planned Mountain District)  
to M-1 (Light Manufacturing) - 19.077  
acres  
Parcel No. 3: from R-3 (Residential) to C-4  
(Commercial) - 132.273 acres  
Parcel No. 4: from R-3 (Residential) to A-2  
(Apartment) - 16.241 acres  
Parcel No. 5: from A-2 (Apartment) to C-4  
(Commercial) - 4.255 acres  
Parcel No. 6: from R-3 (Residential) to M-1 (Light  
Manufacturing) - 67.329 acres  
Parcel No. 6A: from PMD (Planned Mountain District)  
to M-1 (Light Manufacturing) - 3.397  
acres

000364  
*Contract* 8-9-88  
88-5353

**RECEIVED**

AUG 18 1988

PLANNING DEPT.  
LAND DEVELOPMENT

This instrument was acknowledged before me on this 100 day  
of August, 1988, by JONATHAN W. ROGERS, as Mayor  
of THE CITY OF EL PASO.

My Commission Expires:

Billie Jean Branham

Notary Public, State of Texas

Notary's Printed or Typed Name:

ENG6:5353.88  
08/09/88



RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the Mayor be authorized to sign a contract between THE CITY OF EL PASO and LAWYER'S TITLE, INC., Trustee for Westside Joint Venture, placing certain restrictions, conditions and covenants on the property being rezoned by Ordinance No. 005 367, more particularly described as a portion of Nellie D. Mundy Surveys No. 239, 240 and 243; a portion of Tracts 61 and 62, W.H. Glenn Survey No. 241; a portion of Tract 1B, S.J. Larkin Survey No. 266; a portion of Tract 6, W.H. Lenox Survey No. 432; and portions of Tracts 1 and 8, S.A. and M.G. Survey No. 266, City and County of El Paso, Texas.

ADOPTED this 26<sup>th</sup> day of April, 1988.

Mayor

WITEST:

Carole Hunter  
City Clerk

APPROVED AS TO FORM:

C. Catronis  
Assistant City Attorney

ZNG6:5353.88

**RECEIVED**

AUG 17 1988

PLANNING DEPT.  
LAND DEVELOPMENT

THE STATE OF TEXAS )  
COUNTY OF EL PASO )

CONTRACT

*Original  
April 26, 1988*

THIS CONTRACT made this \_\_\_\_\_ day of \_\_\_\_\_, 1988,  
by and between WESTSIDE JOINT VENTURE and LAWYER'S TITLE OF EL  
PASO, INC., as Trustee for Westside Joint Venture, hereinafter  
referred to collectively as First Party, and the CITY OF EL PASO,  
Second Party, witnesseth:

Application has been made to the City of El Paso for the  
rezoning of a portion of Nellie D. Mundy Surveys No. 239, 240 and  
243; a portion of Tracts 61 and 62, W.H. Glenn Survey No. 241; a  
portion of Tract 1B, S.J. Larkin Survey No. 266; a portion of  
Tract 6, W.H. Lenox Survey No. 432; and portions of Tracts 1 and  
8, S.A. and M.G. Survey No. 266, City and County of El Paso,  
Texas, which are more particularly described by metes and bounds  
in the attached Exhibit "A" (pages 1 - 15) which is made a part  
hereof by reference. To remove certain objections to such  
rezoning, First Party covenants that if the property is rezoned  
as follows:

- Parcel No. 1: from R-3 (Residential) to C-4  
(Commercial) - 8.425 acres
- Parcel No. 1C: from PMD (Planned Mountain District)  
to C-4 (Commercial) - 7.581 acres
- Parcel No. 2: from R-3 (Residential) to M-1 (Light  
Manufacturing) - 273.607 acres
- Parcel No. 2A: from PMD (Planned Mountain District)  
to M-1 (Light Manufacturing) - 19.077  
acres
- Parcel No. 3: from R-3 (Residential) to C-4  
(Commercial) - 132.273 acres
- Parcel No. 4: from R-3 (Residential) to A-2  
(Apartment) - 16.241 acres



Parcel No. 5: from A-2 (Apartment) to C-4  
(Commercial) - 4.255 acres  
 Parcel No. 6: from R-3 (Residential) to M-1 (Light  
Manufacturing) - 67.329 acres  
 Parcel No. 6A: from PMD (Planned Mountain District)  
to M-1 (Light Manufacturing) - 3.397  
acres  
 Parcel No. 7: from R-3 (Residential) to A-O  
(Apartment/Office) - 0.485 acres  
 Parcel No. 8: from R-5 (Residential) to A-O  
(Apartment/Office) - 13.382 acres  
 Parcel No. 9: from R-5 (Residential) to C-4  
(Commercial) - 4.896 acres  
 Parcel No. 10: from A-O (Apartment/Office) to  
A-2 (Apartment) - 9.435 acres

within the meaning of the zoning ordinance of the City of El Paso, it shall be subject to the following restrictions, conditions and covenants:

1. Prior to the issuance of a building permit(s) for any parcel, a subdivision plat must be filed of record for said parcel.
2. First Party shall contribute money toward the construction of two (2) entrance/exit ramps at the south side of Artcraft Road and Interstate 10 in El Paso in accordance with the following provisions:
  - a. Prior to the City Engineer's final signature on any subdivision plat, First Party shall obtain a proportionate release for each plat by contributing an amount calculated according to the following formula:

Acres of land to be released	X	\$500,000	X	Artcraft Interchange Cost Index
560.4 acres				

The "Artcraft Interchange Cost Index" shall be the most current Construction Cost Index published in the Engineering News Record as of the date the City Engineer signs

a final plat or approves a proportionate release, divided by the same index as of AUGUST 9, 1988 which was 4541.59.

- b. Alternatively, First Party may at any time, according to the formula in Paragraph 2a above, pay the remaining contribution due on any or all acreage within the above-referenced parcels for which final plats have not been approved by the City Plan Commission.
- c. At the time First Party makes any proportionate contribution, First Party may prepare and submit proportionate release documents which will evidence receipt by the City of that contribution toward the Artcraft Road and Interstate 10 slip ramps. Upon approval of the form of any release document by the City Attorney's Office and the City Engineering Department, First Party shall be proportionately released from the terms of Paragraph 2 of this agreement.
- d. All payments made under the terms of this Paragraph 2 shall proportionately release First Party from the requirements of Paragraph 2 of this agreement.
- e. The money for the two (2) slip ramps shall be paid by First Party as provided above, or in any event, within thirty (30) days after receipt of a written request for payment from Second Party, to be delivered to First Party immediately prior to advertisement for bids by the State Department of Highways and Public Transportation.
- f. All monies paid for proportionate releases, from the requirements of this Paragraph 2, as above provided, shall be deposited in a separate and interest bearing

escrow account controlled by Second Party and earmarked solely for the payment of the cost of the slip ramps. In the event construction is not commenced within five (5) years from the date hereof as above required, all funds in the escrow account shall revert and be paid to the First Party upon written request, and the requirements of this Paragraph 2 shall automatically terminate and cease to be an encumbrance on title.

3. Prior to final approval of any subdivision plats in Parcel 2, the First Party must dedicate a fire station site to Second Party. The fire station site must have one hundred seventy five (175) feet of frontage on the proposed Resler Drive at an intersection with a dedicated side street and a depth of one hundred fifty eight (158) feet. The exact location of the site shall be determined by the El Paso Fire Department and First Party. Unless otherwise agreed by both parties, the dedication of the site shall be by metes and bounds, subject to the approval of this exception by the Planning Commission and City Council. It is understood and agreed that the legal description of the site might shift, depending on the final development of the subdivision of which the site will be a part, thereby requiring an amendment of this Special Contract and such amendment may occur with the approval of the El Paso Fire Department and without any necessity of going back to the Planning Commission and to City Council.
4. A 75-foot wide Special Building Setback Line (S.B.S.L.) shall be established along the north portions of Parcels 1C, 2A, 6 and 6A, adjacent to Woodrow Bean Transmountain Drive. In addition, First Party must landscape the S.B.S.L. area in accordance with the landscaping plan, which is on file with the Department of Planning, Research and Development, prior to the issuance of any building permits for said parcels.

This agreement is a restriction, condition and covenant

running with the land and a charge and servitude thereon, and shall bind First Party and its successors in title. Any future conveyance of the land shall contain this restriction, condition and covenant and shall embody this agreement by express reference.

The City may enforce this agreement by injunction or any other legal or equitable remedy. The City Council of the City of El Paso may amend or release the above restrictions, conditions and covenants in its discretion without the consent of any third person who may be benefited thereby, and without affecting the validity or necessitating the amendment of the ordinance passed by the City Council embodying this change of zoning and subject to this contract.

WITNESS THE FOLLOWING SIGNATURES AND SEALS:

FIRST PARTY:  
WESTSIDE JOINT VENTURE

By \_\_\_\_\_

Title \_\_\_\_\_

LAWYER'S TITLE OF EL PASO, INC.,  
Trustee for Westside Joint Venture

By \_\_\_\_\_

Title \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Secretary

SIGNATURES CONTINUED ON NEXT PAGE

SECOND PARTY:  
THE CITY OF EL PASO

By \_\_\_\_\_  
Mayor

ATTEST:

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

APPROVED AS TO FORM:

C. Colonius  
Assistant City Attorney

APPROVED AS TO CONTENT:

Ray Hilgand  
Department of Planning,  
Research and Development

THE STATE OF TEXAS )  
                                  )  
COUNTY OF EL PASO )

This instrument was acknowledged before me on this \_\_\_\_\_ day  
of \_\_\_\_\_, 1988, by \_\_\_\_\_ as  
\_\_\_\_\_ on behalf of WESTSIDE JOINT VENTURE.

\_\_\_\_\_  
Notary Public, State of Texas  
Notary's Printed or Typed Name

My Commission Expires:

\_\_\_\_\_

THE STATE OF TEXAS )  
                                  )  
COUNTY OF EL PASO )

This instrument was acknowledged before me on this \_\_\_\_\_ day  
of \_\_\_\_\_, 1988, by \_\_\_\_\_ as  
\_\_\_\_\_ on behalf of LAWYER'S TITLE OF EL  
PASO, INC., as Trustee for Westside Joint Venture.

\_\_\_\_\_  
Notary Public, State of Texas  
Notary's Printed or Typed Name:

My Commission Expires:

\_\_\_\_\_

ACKNOWLEDGEMENTS CONTINUED ON NEXT PAGE

THE STATE OF TEXAS   )  
                                  )  
COUNTY OF EL PASO    )

      This instrument was acknowledged before me on this \_\_\_\_\_ day  
of \_\_\_\_\_, 1988, by JONATHAN W. ROGERS, as Mayor  
of THE CITY OF EL PASO.

My Commission Expires:

\_\_\_\_\_  
Notary Public, State of Texas  
Notary's Printed or Typed Name:  
\_\_\_\_\_

\_\_\_\_\_  
  
ZNG6:5353.88  
08/09/88

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the Mayor be authorized to sign a Contract Amendment between the CITY OF EL PASO and WESTSIDE JOINT VENTURES, INC., amending one of the conditions on the property rezoned by Ordinance Number 9364, more particularly described as a portion of Nellie D. Mundy Surveys No. 239, 240 and 243; a portion of Tracts 61 and 62, W.H. Glenn Survey No. 241; a portion of Tract 1B, S.J. Larkin Survey No. 266; a portion of Tract 6, W.H. Lenox Survey No. 432; and portions of Tracts 1 and 8, S.A. and M.G. Survey No. 266, City and County of El Paso, Texas.

ADOPTED THIS 13<sup>th</sup> day of September, 1988.

THE CITY OF EL PASO

\_\_\_\_\_  
Mayor

ATTEST:

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

APPROVED AS TO FORM:

Carol Colonis by bmm  
Assistant City Attorney

ZNG7:5353.88  
09/07/88

ORD # 9364 (4-26-88)

88-5353

THE STATE OF TEXAS     )  
                                      )  
COUNTY OF EL PASO     )

CONTRACT AMENDMENT

THIS Contract Amendment is made this 13<sup>th</sup> day of September, 1988 by and between WESTSIDE JOINT VENTURE and LAWYER'S TITLE OF EL PASO as Trustee for WESTSIDE JOINT VENTURE, collectively referred to as First Party, and the CITY OF EL PASO, Second Party.

WHEREAS, on August 9, 1988, First Party and the CITY OF EL PASO entered into a contract in connection with Ordinance Number 9364 which rezoned a portion of Nellie D. Mundy Surveys No. 239, 240 and 243; a portion of Tracts 61 and 62, W. H. Glenn Survey No. 241; a portion of Tract 1B, S. J. Larkin Survey No. 266; a portion of Tract 6, W. H. Lenox Survey No. 432; and portions of Tracts 1 and 8, S. A. and M. G. Survey No. 266, City and County of El Paso, Texas; and

WHEREAS, the Parties hereto wish to amend such contract as hereinafter provided;

NOW, THEREFORE, the Parties do mutually agree to amend the contract by deleting condition number four and by adding following condition:

4. A 75-foot Special Building Setback Line (S.B.S.L.) shall be established along the north portions of Parcels 1C, 2A, 6, and 6A adjacent to Woodrow Bean Transmountain Drive. The S.B.S.L. shall only be required until such time as the property owner dedicates 75 feet of right-of-way to the City through a



subdivision plat. The 75-foot S.B.S.L. and the 75 feet dedicated shall not be graded or developed so that the natural vegetation and topsoil remain intact except as is required for driveways and streets.

Except as expressly modified herein, all other terms and provisions of the contract shall remain in full force and effect.

WITNESS THE FOLLOWING SIGNATURES AND SEALS:

FIRST PARTY:  
WESTSIDE JOINT VENTURE

By: \_\_\_\_\_  
Title: \_\_\_\_\_

LAWYER'S TITLE OF EL PASO, INC.,  
Trustee for Westside Joint Venture

By: \_\_\_\_\_  
Title: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Secretary

SECOND PARTY:  
THE CITY OF EL PASO

By: \_\_\_\_\_  
Mayor

ATTEST:

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

APPROVED AS TO FORM:

*Carol Cotsonis by bmm*  
Assistant City Attorney

APPROVED AS TO CONTENT:

*Ray Gileard*  
Department of Planning,  
Research and Development

ACKNOWLEDGEMENTS CONTINUE ON NEXT PAGE