



City of El Paso – City Plan Commission Staff Report

Application Type Development Agreement Amendment – TDE Linear Park
CPC Hearing Date February 12, 2015
Staff Planner Kimberly Forsyth, 915-212-1563, forsythkl@elpasotexas.gov

Location North of Pebble Hills Blvd. and East of John Hayes
Legal Description Portions of Lot 3, Block 391, Tierra del Este Unit 69 and Portions of Section 37, Block 79, Texas and Pacific Railway Company Surveys, City of El Paso, El Paso County, Texas.

Acreage 11.255 acres
Rep District District 5
Existing Use Vacant
Existing Zoning Residential
Request To increase the acreage of dedicated and improved parkland and receive parkland credit.

Property Owner Ranchos Real Land Holdings, LLC
Representative Conde, Inc.

Distance to Park: Abuts an existing linear park

SURROUNDING ZONING AND LAND USE

North: R-5 (Residential) / Residential and proposed linear park

South: C-2 (Commercial) / Vacant

East: GMU (General Mixed Use/ Vacant

West: R-5 (Residential) / Vacant

PLAN EL PASO DESIGNATION: G4 – Suburban (Walkable)

APPLICATION DESCRIPTION:

The applicant proposes to dedicate and improve approximately 1.415 additional acres for a linear park that was approved by City Council on Dec. 18, 2012, and as shown on the Tierra del Este III Phase III Amended Land Study. The applicant will receive park credit for the improved parkland.

CASE HISTORY:

The development agreement for linear park dedication and improvement was approved by CPC on Nov. 15, 2012 and by City Council on Dec. 18, 2012. The original agreement included 9.84 acres, which is being increased to 11.255 acres.

DEVELOPMENT COORDINATING COMMITTEE RECOMMENDATION:

The DCC recommends **APPROVAL** of amending the Development Agreement subject to the following comments:

Planning Division Recommendation:

The Planning Division recommends **APPROVAL**. The proposed amendment will add 1.415 acres of improved parkland to the linear park.

Parks:

Parks has reviewed the amendment and has no objections. All improvements are to be completed within one year of approval of the agreement.

Fire Department:

No comments received.

El Paso Water Utilities:

No comments received.

El Paso Department of Transportation

No comment received.

Attachments:

Attachment 1: Location Map

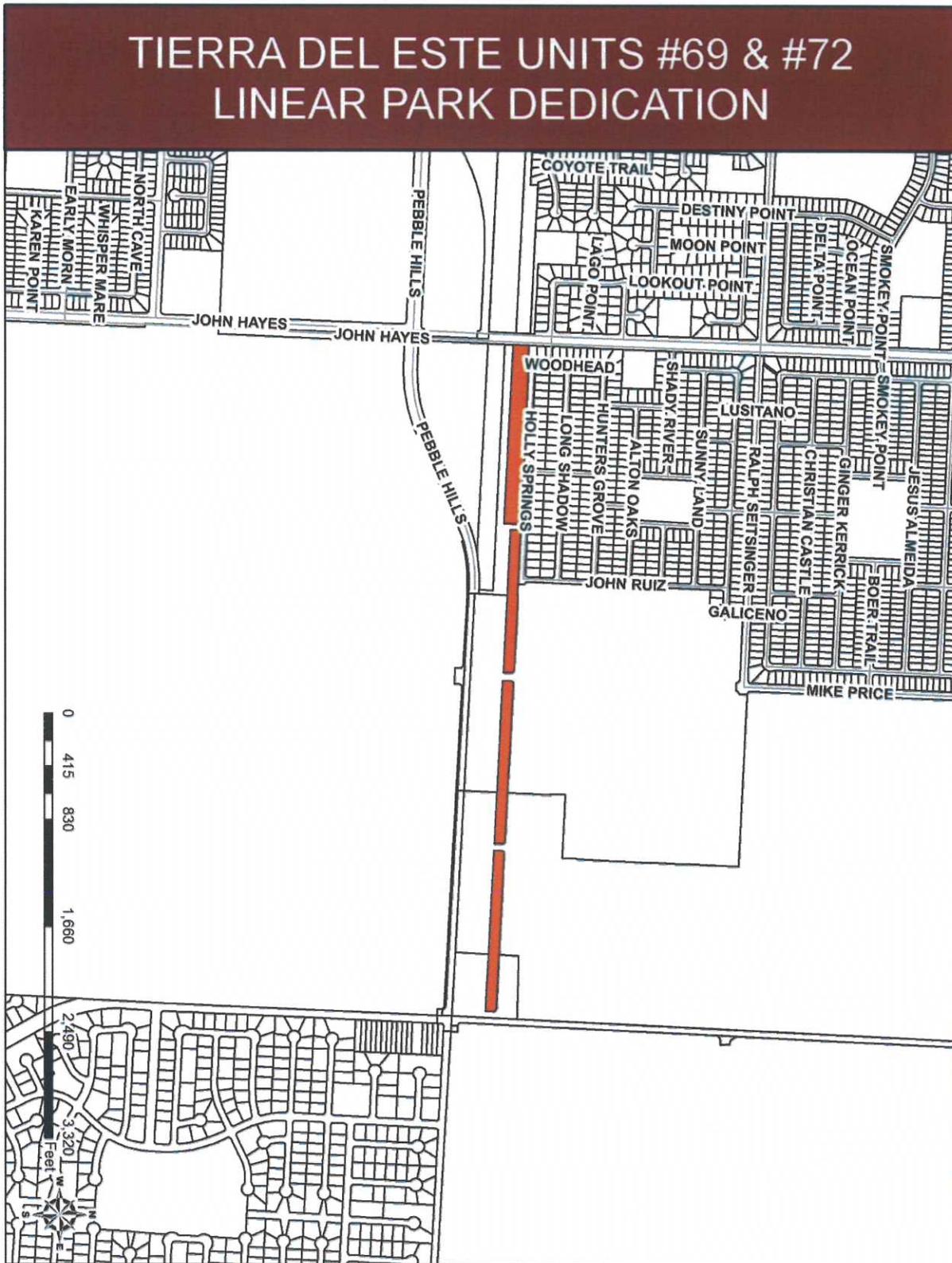
Attachment 2: Aerial Map

Attachment 3: Proposed Development Agreement

Attachment 4: Proposed Development Plan

Attachment 5: Prior Approved Development Agreement

ATTACHMENT 1: LOCATION MAP

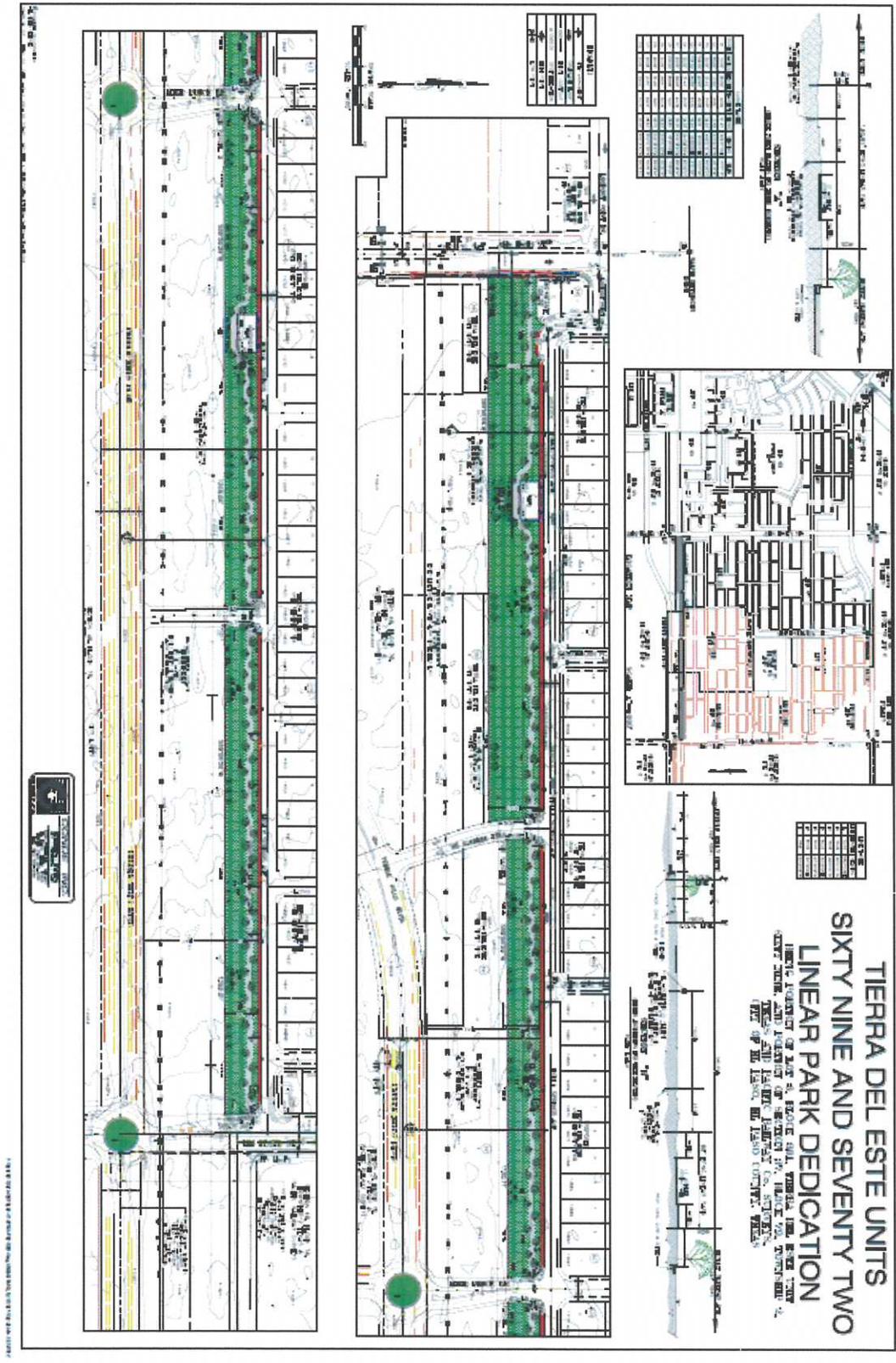


ATTACHMENT 2: AERIAL MAP

TIERRA DEL ESTE UNITS #69 & #72
LINEAR PARK DEDICATION



ATTACHMENT 3: PROPOSED DEVELOPMENT PLAN



ATTACHMENT 4:

PROPOSED AMENDMENT

STATE OF TEXAS)
)
)
)
 COUNTY OF EL PASO)

**FIRST AMENDMENT TO THE
 DEVELOPMENT AGREEMENT**

This First Amendment to the Development Agreement is made this _____ day of _____, 2015 by and between **RANCHOS REAL LAND HOLDINGS, LLC** hereinafter referred to as the “Developer,” and the **CITY OF EL PASO**, hereinafter referred to as the “City.”

WITNESSETH:

WHEREAS, the City approved a Development Agreement on December 18, 2012 (the “Original Agreement”) to accept land to be dedicated as parkland from RANCHOS REAL LAND HOLDINGS, LLC, hereinafter referred to as the “Developer” and the Developer has requested to amend that agreement to dedicate and improve additional parkland (hereinafter the “Amendment”);

WHEREAS, the El Paso City Plan Commission recommended approval of the off-site dedication of the Park Site; and,

WHEREAS, the City is authorized to enter into this Agreement pursuant to Texas Local Government Code Section 212.071; and,

WHEREAS, the El Paso City Council has approved this Amendment and has authorized the City Manager to sign;

NOW, THEREFORE, the parties hereby agree as follows:

1. That Paragraph 2 of the Original Agreement is hereby amended to read as follows:

PARKLAND DEDICATION CREDIT: The Developer, by this off-site dedication, is hereby granted a 11.255 acre parkland credit for land dedication applicable toward any subsequent parkland requirement within future residential development within the Tierra Del Este III Phase III Land Study, subject to the provisions of the Agreement, however such must be constructed within one year from the date of this amendment. All other "Park Sites" shown on the Tierra Del Este III – Phase III Land Study shall not change in size or location as a result of this off-site dedication.

2. That Exhibits A, B and C are amended as attached hereto and incorporated into the Original Agreement, and such improvements must be completed within one year of the approval of this Amendment by the El Paso City Council.
3. All other provisions of the development agreement approved December 18, 2012 shall remain in full force.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

THE CITY OF EL PASO:

Tomás González, City Manager

APPROVED AS TO FORM:



Kristen L. Hamilton-Karam
Assistant City Attorney

APPROVED AS TO CONTENT:

Carlos Gallinar, Deputy Director
Planning and Inspections Department

APPROVED AS TO CONTENT:

Tracy Novak, Director
Parks & Recreation Department

(ACKNOWLEDGEMENTS ON FOLLOWING PAGE)

ACKNOWLEDGEMENT

STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on the _____ day of _____, 2015, by Tomás González, as City Manager of THE CITY OF EL PASO, a municipal corporation, on behalf of said corporation.

My Commission Expires:

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

ACCEPTANCE

The above Agreement, with all conditions thereof, is hereby accepted this _____ day of _____, 2015 by Douglas A. Schwartz, as Manager of Ranchos Real Land Holdings, a Texas limited liability company, on behalf of said limited liability company.

RANCHOS REAL LAND HOLDINGS, LLC

By: _____
Douglas A. Schwartz, Manager

ACKNOWLEDGEMENT

STATE OF TEXAS)
COUNTY OF EL PASO)

This instrument was acknowledged before me on the _____ day of _____, 2015, by Douglas A. Schwartz, as Manager of Ranchos Real Developers Land Holdings, LLC, a Texas limited liability company, on behalf of said limited liability company.

My Commission Expires:

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

Prepared for: Southwest Land Development Services Inc.
May 9, 2014
(Proposed Linear Park Parcel 1)

METES AND BOUNDS DESCRIPTION

Description of a parcel of land being a Portion of Lot 3, Block 391, Tierra Del Este Unit Sixty Nine, City Of El Paso, El Paso County, Texas, and being more particularly described by metes and bounds as follows:

Commencing for reference at an existing brass disk city monument at the centerline intersection of John Hayes St. and Lookout Point Dr. from which an existing brass disk City monument at the centerline intersection of John Hayes St. and Ralph Seitsinger Dr. bears North $00^{\circ}35'06''$ West a distance of 1652.85 feet; Thence along the centerline of John Hayes St. South $00^{\circ}35'06''$ East a distance of 285.71 feet to a point; Thence leaving said centerline North $89^{\circ}58'09''$ East a distance of 60.00 feet to a set $\frac{1}{2}$ " rebar with cap marked TX 5152 on the easterly right of way of John Hayes St. for the "TRUE POINT OF BEGINNING".

Thence along said right of way line, North $00^{\circ}35'06''$ West a distance of 124.48 feet to a set $\frac{1}{2}$ " rebar with cap marked TX 5152;

Thence leaving said right of way line, South $89^{\circ}49'28''$ East a distance of 106.39 feet to a set $\frac{1}{2}$ " rebar with cap marked TX 5152;

Thence North $45^{\circ}41'09''$ East a distance of 25.00 feet to a set $\frac{1}{2}$ " rebar with cap marked TX 5152 to a point of curve;

Thence 86.69 feet along the arc of a curve to the left which has a radius of 70.00 feet a central angle of $70^{\circ}57'16''$ a chord which bears South $79^{\circ}47'29''$ East a distance of 81.25 feet to a set $\frac{1}{2}$ " rebar with cap marked TX 5152 to a point of reverse curve;

Thence 17.62 feet along the arc of a curve to the right which has a radius of 40.00 feet a central angle of $25^{\circ}14'16''$ a chord which bears North $77^{\circ}21'01''$ East a distance of 17.48 feet to a set $\frac{1}{2}$ " rebar with cap marked TX 5152;

Thence North $89^{\circ}58'09''$ East a distance of 1150.96 feet to a set $\frac{1}{2}$ " rebar with cap marked TX 5152 to a point of curve;

Thence 31.42 feet along the arc of a curve to the right which has a radius of 20.00 feet a central angle of $90^{\circ}00'00''$ a chord which bears South $45^{\circ}01'51''$ East a distance of 28.28 feet to a set $\frac{1}{2}$ " rebar with cap marked TX 5152;

Thence South $00^{\circ}01'51''$ East a distance of 18.48 feet to a set $\frac{1}{2}$ " rebar with cap marked TX 5152 to a point of curve;

Thence 92.93 feet along the arc of a curve to the left which has a radius of 526.00 feet a central angle of $10^{\circ}07'20''$ a chord which bears South $05^{\circ}05'31''$ East a distance of 92.81 feet to a set $\frac{1}{2}$ " rebar with cap marked TX 5152;

Thence South $89^{\circ}58'09''$ West a distance of 1399.24 feet to the "TRUE POINT OF BEGINNING" and containing 181,223.3873 Square Feet or 4.1603 acres of land more or less.

Note: A drawing of even date accompanies this survey.



A handwritten signature in black ink, appearing to read "Ron R. Conde", written over a horizontal line.

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

job #_308-87

CONDE, INC.
ENGINEERING / LAND SURVEYING / PLANNING
6080 SURETY DRIVE, SUITE 100 / EL PASO, TEXAS 79905 / (915) 592-0283
FAX (915) 592-0286

Prepared for: Southwest Land Development Services Inc.
May 9, 2014
(Proposed Linear Park Parcel 2)

METES AND BOUNDS DESCRIPTION

Description of a parcel of land being a Portion of Lot 3, Block 391, Tierra Del Este Unit Sixty Nine, and portion of Section 37, Block 79, Township 2, 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:

Commencing for reference at an existing brass disk city monument at the centerline intersection of Holly Springs Ave. and John Ruiz Dr. from which an existing brass disk City monument at the centerline intersection of Holly Springs Ave. and Saddlehorn Pl. bears South 89°58'09" West a distance of 845.05 feet; Thence from said City monument at the centerline intersection of Holly Springs Ave. and John Ruiz St., South 73°36'51" West a distance of 394.19 feet to a point for the "TRUE POINT OF BEGINNING".

Thence 46.60 feet along the arc of a curve to the right which has a radius of 474.00 feet a central angle of 5°37'59" a chord which bears North 02°50'50" West a distance of 46.58 feet to a set ½" rebar with cap marked TX 5152;

Thence North 00°01'51" West a distance of 18.48 feet to a set ½" rebar with cap marked TX 5152 for a point of curve;

Thence 31.42 feet along the arc of a curve to the right which has a radius of 20.00 feet a central angle of 90°00'00" a chord which bears North 44°58'09" East a distance of 28.28 feet to a set ½" rebar with cap marked TX 5152;

Thence North 89°58'09" East a distance of 1076.82 feet to a set ½" rebar with cap marked TX 5152 for a point of curve;

Thence 39.03 feet along the arc of a curve to the right which has a radius of 25.00 feet a central angle of 89°26'42" a chord which bears South 45°18'30" East a distance of 35.18 feet to a set ½" rebar with cap marked TX 5152;

Thence South 00°35'09" East a distance of 60.25 feet to a set ½" rebar with cap marked TX 5152;

Thence South 89°58'09" West a distance of 1120.11 feet to the "TRUE POINT OF BEGINNING" and containing 95,117.0049 Square Feet or 2.1836 acres of land more or less.

Note: A drawing of even date accompanies this survey.



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



job #_308-87

CONDE, INC.
ENGINEERING / LAND SURVEYING / PLANNING
6080 SURETY DRIVE, SUITE 100 / EL PASO, TEXAS 79905 / (915) 592-0283
FAX (915) 592-0286

Prepared for; Southwest Land Development Services Inc.
May 9, 2014
(Proposed Linear Park Parcel 3)

METES AND BOUNDS DESCRIPTION

Description of a parcel of land being a Portion of Section 37, Block 79, Township 2, 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:

Commencing for reference at an existing brass disk city monument at the centerline intersection of Holly Springs Ave. and John Ruiz Dr. from which an existing brass disk City monument at the centerline intersection of Holly Springs Ave. and Saddlehorn Pl. bears South 89°58'09" West a distance of 845.05 feet; Thence from said City monument at the centerline intersection of Holly Springs Ave. and John Ruiz St., South 82°12'23" West a distance of 815.33 feet to a point for the "TRUE POINT OF BEGINNING".

Thence 29.98 feet along the arc of a curve to the right which has a radius of 240.00 feet a central angle of 7°09'28" a chord which bears North 4°09'54" West a distance of 29.96 feet to a set ½" rebar with cap marked TX 5152;

Thence North 00°35'09" West a distance of 29.87 feet to a set ½" rebar with cap marked TX 5152 for a point of curve;

Thence 39.51 feet along the arc of a curve to the right which has a radius of 25.00 feet a central angle of 90°33'18" a chord which bears North 44°41'30" East a distance of 35.53 feet to a set ½" rebar with cap marked TX 5152;

Thence North 89°58'09" East a distance of 1225.49 feet to a set ½" rebar with cap marked TX 5152 for a point of curve;

Thence 31.22 feet along the arc of a curve to the right which has a radius of 20.00 feet a central angle of 89°26'42" a chord which bears South 45°18'30" East a distance of 28.15 feet to a set ½" rebar with cap marked TX 5152;

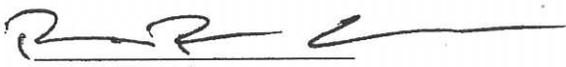
Thence South 00°35'09" East a distance of 65.20 feet to a set ½" rebar with cap marked TX 5152;

Thence South 89°58'09" West a distance of 1268.67 feet to the "TRUE POINT OF BEGINNING" and containing 107,756.1189 Square Feet or 2.4737 acres of land more or less.

Note: A drawing of even date accompanies this survey.



job #_308-87


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

Prepared for Southwest Land Development Services Inc.
May 9, 2014
(Proposed Linear Park Parcel 4)

METES AND BOUNDS DESCRIPTION

Description of a parcel of land being a Portion of Section 37, Block 79, Township 2, 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:

Commencing for reference at an existing brass disk city monument at the centerline intersection of Holly Springs Ave. and John Ruiz Dr. from which an existing brass disk City monument at the centerline intersection of Holly Springs Ave. and Saddlehorn Pl. bears South 89°58'09" West a distance of 845.05 feet; Thence from said City monument at the centerline intersection of Holly Springs Ave. and John Ruiz St., South 87°02'44" West a distance of 2131.30 feet to a point for the "TRUE POINT OF BEGINNING".

Thence North 00°35'09" West a distance of 64.81 feet to a set ½" rebar with cap marked TX 5152 for a point of curve;

Thence 31.61 feet along the arc of a curve to the right which has a radius of 20.00 feet a central angle of 90°33'18" a chord which bears North 44°41'30" East a distance of 28.42 feet to a set ½" rebar with cap marked TX 5152;

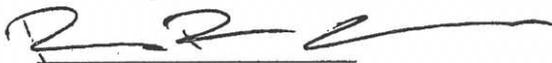
Thence North 89°58'09" East a distance of 1207.05 feet to a set ½" rebar with cap marked TX 5152 for a point of curve;

Thence 39.03 feet along the arc of a curve to the right which has a radius of 25.00 feet a central angle of 89°26'22" a chord which bears South 45°18'40" East a distance of 35.18 feet to a set ½" rebar with cap marked TX 5152;

Thence South 00°35'30" East a distance of 60.25 feet to a set ½" rebar with cap marked TX 5152;

Thence South 89°58'09" West a distance of 1252.01 feet to the "TRUE POINT OF BEGINNING" and containing 106,201.5876 Square Feet or 2.4381 acres of land more or less.

Note: A drawing of even date accompanies this survey.



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



job #_308-87

CONDE, INC.
ENGINEERING / LAND SURVEYING / PLANNING
6080 SURETY DRIVE, SUITE 100 / EL PASO, TEXAS 79905 / (915) 592-0283
FAX (915) 592-0286

ATTACHMENT 5:

PRIOR APPROVED DEVELOPMENT AGREEMENT

STATE OF TEXAS)
) DEVELOPMENT AGREEMENT
COUNTY OF EL PASO)

This Agreement is made this 18th day of December, 2012, by and between RANCHOS REAL LAND HOLDINGS, LLC hereinafter referred to as the "Developer," and the CITY OF EL PASO, hereinafter referred to as the "City."

WITNESSETH:

WHEREAS, the Developer is the owner of a parcel of land containing 9.84 acres, more or less, being a portion of Section 37, Block 79, Township 2, Texas and Pacific Railroad Company Surveys, City of El Paso, El Paso County, Texas, and being more particularly described by metes and bounds attached hereto and made part hereof as Exhibit "A" (the "Park Site"); and,

WHEREAS, the Developer wishes to dedicate the Park Site to the City for use as a park site; and,

WHEREAS, the Park Site qualifies under the Subdivision Code as an off site park dedication and is located within Park Zone E-9 and the Tierra Del Este III Phase III Land Study; and,

WHEREAS, once the Park Site is dedicated to the City, the Developer is required to develop the Park Site within two years of the approval of this Development Agreement by the El Paso City Council; and,

WHEREAS, the City has negotiated with Developer for the specific improvements for the Park Site and wishes to accept the dedication of land as a Park Site; and,

WHEREAS, the El Paso City Plan Commission recommended approval of the off-site dedication of the Park Site; and,

WHEREAS, the City is authorized to enter into this Agreement pursuant to Texas Local Government Code Section 212.071; and,

WHEREAS, the El Paso City Council has approved this agreement (the "Agreement") and has authorized the City Manager to sign this Agreement;

NOW, THEREFORE, the parties hereby agree as follows:

1. DESCRIPTION: The Developer, being the owner of the Park Site, hereby agrees to dedicate said Park Site to the City for park purposes.

2. PARKLAND DEDICATION CREDIT: The Developer, by this off-site dedication, is hereby granted a 9.84 acre parkland credit for land dedication applicable toward any subsequent parkland requirement within future residential development within the Tierra Del Este III Phase III Land Study, subject to the provisions of the Agreement. All other "Park Sites" shown

on the Tierra Del Este III – Phase III Land Study shall not change in size or location as a result of this off-site dedication.

3. **IMPROVEMENTS:** The Park Site shall be improved by the Developer in accordance with the requirements of Chapter 19.20 and all other applicable provisions of the Subdivision Ordinance and all other provisions of the City Code as well as the additional provisions of this Agreement.

3.1 Developer is herein authorized to enter the Park Site at any time for the purpose of completing the improvements, as set out in the Site Plan attached hereto as Exhibit "B" and in the Cost Estimate attached hereto as Exhibit "C" (collectively, the "Improvements") which are incorporated herein for all purposes and which must be completed within two years of the approval of the development agreement by City Council. Each item in Exhibit "B" and Exhibit "C" shall be provided by Developer to the Park Site.

4. **ADJACENT DEVELOPMENT:** Developer agrees to develop any new development abutting the Park Site in accordance with the requirements of Title 19 and all other applicable provisions of the Subdivision Ordinance and all other provisions of the City Code as well as the additional provisions of this Agreement.

4.1 Lots directly abutting the boundary of the Park Site shall face the Park Site. Street frontage abutting the Park Site boundaries shall be permitted only when the lots abutting that same street face toward the Park Site. Pedestrian connectivity shall be provided between the Park Site and adjacent developments.

4.2 The placement of rear or side lot lines adjacent to the Park Site boundaries shall be prohibited.

5. **CITY'S PARTICIPATION:** The City shall not have any costs, nor shall the Developer be entitled to any reimbursement of costs, associated with this Agreement.

6. **TITLE, TAXES and CONVEYANCE:** The Developer agrees to pay the cost of providing a title search, preparation of the deed, as well as recording costs for the deed on the Park Site, and further agrees to pay all ad valorem taxes, standby fees and assessments by any taxing authority prorated through the date of acceptance of the deed conveying fee simple title by the City Council. The Developer shall deliver to the City Development Department the deed conveying fee simple title of the Park Site in accordance with City Code Chapter 19.20 (Parks and Open Space).

7. **INSURANCE & BOND:** Throughout the time that the Improvements are under construction (the "Construction Period"), Developer shall have its contractor provide and keep in force, comprehensive general liability insurance in an amount not less than ONE MILLION DOLLARS (\$1,000,000.00) for personal injuries sustained by one claimant from a single occurrence, TWO MILLION DOLLARS (\$2,000,000.00) for personal injuries to more than one claimant from a single occurrence, and ONE MILLION DOLLARS (\$1,000,000.00) for property damages from a single occurrence. The City shall be provided with a copy of the policy evidencing such coverage. Such policy shall name the City as additional insured and shall be issued by an insurance company licensed to do business in Texas. Such policy shall provide for 30 days written notice to the City prior to cancellation or material alteration of the insurance coverage.

7.1 **Bond Required.** Pursuant to Texas Local Government Code Section 212.073, Developer must provide a performance bond for the Total Improvement Cost to secure fulfillment of all of Developer's obligations under this Agreement. The bond must be provided within 30

calendar days after City Council approval of the development agreement and shall be provided to the Deputy Director of the City Development Department - Planning Division. The bond shall be in a form approved by the City. The bond must be executed by a corporate surety in accordance with Texas Government Code Section 2253. The bond shall identify the City as Owner and Obligee and shall bind both Developer's contractor and the Surety, their heirs, administrators, executors, successors and assignees, jointly and severally. The bond shall expressly provide that Developer's contractor shall faithfully render performance under this Agreement and shall remain in full force and effect until all requirements of the Agreement have been performed to the City's satisfaction.

8. INDEMNIFICATION: DEVELOPER UNDERSTANDS AND AGREES THAT IT SHALL INDEMNIFY AND HOLD HARMLESS THE CITY AGAINST ANY AND ALL CLAIMS, DEMANDS, DAMAGES, COSTS AND EXPENSES, INCLUDING INVESTIGATION EXPENSES AND REASONABLE ATTORNEY FEES FOR THE DEFENSE OF SUCH CLAIMS AND DEMANDS, ARISING OUT OF OR ATTRIBUTED DIRECTLY OR INDIRECTLY TO THE NEGLIGENT, GROSS NEGLIGENT, INTENTIONAL, MALPRACTICE OR WILLFUL ACTS OR OMISSIONS OF DEVELOPER, ITS AGENTS, SUBCONTRACTORS, EMPLOYEES, OR REPRESENTATIVES THAT OCCUR DURING THE CONSTRUCTION OF THE IMPROVEMENTS UNDER THIS AGREEMENT.

9. PARKLAND DEDICATION ORDINANCE: All provisions of this Agreement are subject to Title 19 (Subdivisions), Chapter 19.20 (Parks and Open Space) and all other applicable provisions of the Code, and nothing herein is intended to waive or modify any provision of the Code. It is understood, however, that this Agreement may contain provisions requiring the Developer to do more than the Code requires or to receive less parkland credits due to the encumbrance of the gas pipeline easements and the Developer is obligated to comply with such provisions.

10. SUCCESSORS AND ASSIGNS: All the terms, provisions, covenants and conditions of this Agreement shall inure to the benefit of and be binding upon the parties, their successors and assigns.

11. ENTIRE AGREEMENT: This document contains all of the agreements between the parties and may not be modified, except by a written agreement signed by both parties.

12. SEVERABILITY: Every provision of this Agreement is intended to be severable. If any term or provision contained herein is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of the Agreement.

13. LAW GOVERNING CONTRACT: For purposes of determining the place of the Agreement and the law governing the same, it is agreed that the Agreement is entered into the City and County of El Paso, State of Texas, and shall be governed by the laws of the State of Texas. Venue shall be in the courts of El Paso County, Texas.

14. BINDING AGREEMENT: The individual signing this Agreement, on behalf of the Developer, acknowledges that he or she is authorized to do so, and said individual further warrants that he or she is authorized to commit and bind the Developer to the terms and conditions of this Agreement.

15. **REPRESENTATION OF COUNSEL:** Each party has had the opportunity to be represented by counsel of its choice in negotiating this Agreement. This Agreement shall therefore be deemed to have been negotiated and prepared at the joint request, direction and construction of the parties, at arms' length, with the advice and participation of counsel, and will be interpreted in accordance with its terms without favor to any party.

16. **NOTICE:** All notices and communications under this Agreement shall be hand-delivered or mailed, postage pre-paid with proof of delivery, to the representative parties at their respective addresses below, unless and until either party is otherwise notified in writing.

City of El Paso
City Development Department
Attn: Planning Deputy Director
2 Civic Center Plaza
El Paso, Texas 79901
Tel: (915) 541-4331

Rancho's Real Land Holdings,
LLC
6080 Surety Dr., Ste. 300
El Paso, TX 79905
(915)592-0290

17. **WAIVER:** No waiver of any breach or default shall be deemed or construed to constitute a waiver of any other violation or other breach of any of the terms, provisions, and covenants contained in this Agreement, and forbearance to enforce one or more of the remedies provided upon an event of default shall not be deemed or construed to constitute a waiver of such default or of any other remedy provided for in this Agreement.

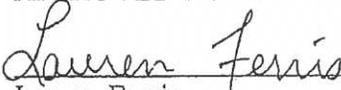
IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

THE CITY OF EL PASO:



Joyce A. Wilson
City Manager

APPROVED AS TO FORM:



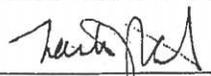
Lauren Ferris
Assistant City Attorney

APPROVED AS TO CONTENT:



Carlos Gallinar, Deputy Director of
City Development - Planning

APPROVED AS TO CONTENT:



Nanette L. Simejkal, Director
Parks & Recreation Department

CITY CLERK DEPT.
2012 DEC -3 AM 10:56

(ACKNOWLEDGEMENTS ON FOLLOWING PAGE)

EXHIBIT A

Prepared for: Southwest Land Development Services Inc.
July 11, 2012
(Proposed Linear Park Parcel 1)

METES AND BOUNDS DESCRIPTION

Description of a parcel of land being a Portion of Section 37, Block 79, Township 2, 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:

Commencing for reference at an existing brass disk city monument at the centerline intersection of John Hayes St. and Lookout Point Dr. from which an existing brass disk City monument at the centerline intersection of John Hayes St. and Ralph Seitsinger Dr. bears North $00^{\circ}35'06''$ West a distance of 1652.85 feet; Thence along the centerline of John Hayes St. South $00^{\circ}35'06''$ East a distance of 239.79 feet to a point; Thence leaving said centerline North $89^{\circ}58'09''$ East a distance of 60.00 feet to a set $\frac{1}{2}$ " rebar with cap marked TX 5152 on the easterly right of way of John Hayes St. for the "TRUE POINT OF BEGINNING".

Thence along said right of way line, North $00^{\circ}35'06''$ West a distance of 78.56 feet to a set $\frac{1}{2}$ " rebar with cap marked TX 5152;

Thence leaving said right of way line, South $89^{\circ}49'28''$ East a distance of 106.39 feet to a set $\frac{1}{2}$ " rebar with cap marked TX 5152;

Thence North $45^{\circ}41'09''$ East a distance of 25.00 feet to a set $\frac{1}{2}$ " rebar with cap marked TX 5152 to a point of curve;

Thence 86.69 feet along the arc of a curve to the left which has a radius of 70.00 feet a central angle of $70^{\circ}57'16''$ a chord which bears South $79^{\circ}47'29''$ East a distance of 81.25 feet to a set $\frac{1}{2}$ " rebar with cap marked TX 5152 to a point of reverse curve;

Thence 17.62 feet along the arc of a curve to the right which has a radius of 40.00 feet a central angle of $25^{\circ}14'16''$ a chord which bears North $77^{\circ}21'01''$ East a distance of 17.48 feet to a set $\frac{1}{2}$ " rebar with cap marked TX 5152;

Thence North $89^{\circ}58'09''$ East a distance of 1156.96 feet to a set $\frac{1}{2}$ " rebar with cap marked TX 5152 to a point of curve;

Thence 31.42 feet along the arc of a curve to the right which has a radius of 20.00 feet a central angle of $90^{\circ}00'00''$ a chord which bears South $45^{\circ}01'51''$ East a distance of 28.28 feet to a set $\frac{1}{2}$ " rebar with cap marked TX 5152;

Thence South $00^{\circ}01'51''$ East a distance of 18.48 feet to a set $\frac{1}{2}$ " rebar with cap marked TX 5152 to a point of curve;

EXHIBIT A

Thence 46.59 feet along the arc of a curve to the left which has a radius of 520.00 feet a central angle of $05^{\circ}08'00''$ a chord which bears South $02^{\circ}35'51''$ East a distance of 46.57 feet to a set $\frac{1}{2}$ " rebar with cap marked TX 5152;

Thence South $89^{\circ}58'09''$ West a distance of 1399.58 feet to the "TRUE POINT OF BEGINNING" and containing 117,629.3141 Square Feet or 2.7004 acres of land more or less.

Note: A drawing of even date accompanies this survey.



job #_308-87


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

July 11, 2012
(Proposed Linear Park Parcel 2)

EXHIBIT A

METES AND BOUNDS DESCRIPTION

Description of a parcel of land being a Portion of Section 37, Block 79, Township 2, 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:

Commencing for reference at an existing brass disk city monument at the centerline intersection of John Hayes St. and Lookout Point Dr. from which an existing brass disk City monument at the centerline intersection of John Hayes St. and Ralph Seitsinger Dr. bears North 00°35'06" West a distance of 1652.85 feet; Thence along the centerline of John Hayes Blvd., South 00°35'06" East a distance of 239.79 feet to a point; Thence leaving said centerline, North 89°58'09" East a distance of 1499.76 feet to a set ½" rebar with cap marked TX 5152 for the "TRUE POINT OF BEGINNING".

Thence 46.60 feet along the arc of a curve to the right which has a radius of 480.00 feet a central angle of 5°33'44" a chord which bears North 02°48'43" West a distance of 46.58 feet to a set ½" rebar with cap marked TX 5152;

Thence North 00°01'51" West a distance of 18.48 feet to a set ½" rebar with cap marked TX 5152 for a point of curve;

Thence 31.42 feet along the arc of a curve to the right which has a radius of 20.00 feet a central angle of 90°00'00" a chord which bears North 44°58'09" East a distance of 28.28 feet to a set ½" rebar with cap marked TX 5152;

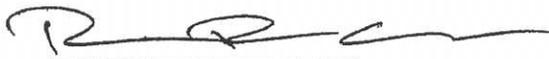
Thence North 89°58'09" East a distance of 1082.82 feet to a set ½" rebar with cap marked TX 5152 for a point of curve;

Thence 39.03 feet along the arc of a curve to the right which has a radius of 25.00 feet a central angle of 89°26'42" a chord which bears South 45°18'30" East a distance of 35.18 feet to a set ½" rebar with cap marked TX 5152;

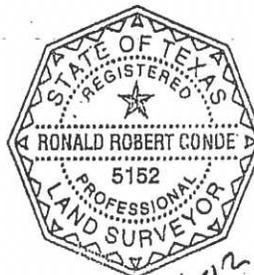
Thence South 00°35'09" East a distance of 60.25 feet to a set ½" rebar with cap marked TX 5152;

Thence South 89°58'09" West a distance of 1126.14 feet to the "TRUE POINT OF BEGINNING" and containing 95,627.4517 Square Feet or 2.1953 acres of land more or less.

Note: A drawing of even date accompanies this survey.



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



job #_308-87

CONDE, INC. 7-11-12

ENGINEERING / LAND SURVEYING / PLANNING
6080 SURETY DRIVE, SUITE 100 / EL PASO, TEXAS 79905 / (915) 592-0283
FAX (915) 592-0286

Prepared for; Southwest Land Development Services Inc.
July 11, 2012
(Proposed Linear Park Parcel 3)

EXHIBIT A

METES AND BOUNDS DESCRIPTION

Description of a parcel of land being a Portion of Section 37, Block 79, Township 2, 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:

Commencing for reference at an existing brass disk city monument at the centerline intersection of John Hayes St. and Lookout Point Dr. from which an existing brass disk City monument at the centerline intersection of John Hayes St. and Ralph Seitsinger Dr. bears North 00°35'06" West a distance of 1652.85 feet; Thence along the centerline of John Hayes Blvd, South 00°35'06" East a distance of 239.79 feet to a point; Thence leaving said centerline, North 89°58'09" East a distance of 2691.77 feet to a set ½" rebar with cap marked TX 5152 for the "TRUE POINT OF BEGINNING".

Thence 29.98 feet along the arc of a curve to the right which has a radius of 240.00 feet a central angle of 7°09'28" a chord which bears North 4°09'54" West a distance of 29.96 feet to a set ½" rebar with cap marked TX 5152;

Thence North 00°35'09" West a distance of 29.87 feet to a set ½" rebar with cap marked TX 5152 for a point of curve;

Thence 39.51 feet along the arc of a curve to the right which has a radius of 25.00 feet a central angle of 90°33'18" a chord which bears North 44°41'30" East a distance of 35.53 feet to a set ½" rebar with cap marked TX 5152;

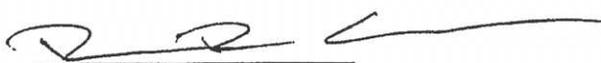
Thence North 89°58'09" East a distance of 1231.49 feet to a set ½" rebar with cap marked TX 5152 for a point of curve;

Thence 31.22 feet along the arc of a curve to the right which has a radius of 20.00 feet a central angle of 89°26'42" a chord which bears South 45°18'30" East a distance of 28.15 feet to a set ½" rebar with cap marked TX 5152;

Thence South 00°35'09" East a distance of 65.20 feet to a set ½" rebar with cap marked TX 5152;

Thence South 89°58'09" West a distance of 1274.67 feet to the "TRUE POINT OF BEGINNING" and containing 108,266.1442 Square Feet or 2.4854 acres of land more or less.

Note: A drawing of even date accompanies this survey.


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



job #_308-87

CONDE, INC.
ENGINEERING / LAND SURVEYING / PLANNING
6080 SURETY DRIVE, SUITE 100 / EL PASO, TEXAS 79905 / (915) 592-0283
FAX (915) 592-0286

EXHIBIT A

Prepared for Southwest Land Development Services Inc.
July 11, 2012
(Proposed Linear Park Parcel 4)

METES AND BOUNDS DESCRIPTION

Description of a parcel of land being a Portion of Section 37, Block 79, Township 2, 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:

Commencing for reference at an existing brass disk city monument at the centerline intersection of John Hayes St. and Lookout Point Dr. from which an existing brass disk City monument at the centerline intersection of John Hayes St. and Ralph Seitsinger Dr. bears North 00°35'06" West a distance of 1652.85 feet; Thence along the centerline of John Hayes Blvd, South 00°35'06" East a distance of 239.79 feet to a point; Thence leaving said centerline, North 89°58'09" East a distance of 4006.44 feet to a set ½" rebar with cap marked TX 5152 for the "TRUE POINT OF BEGINNING".

Thence North 00°35'09" West a distance of 64.81 feet to a set ½" rebar with cap marked TX 5152 for a point of curve;

Thence 31.61 feet along the arc of a curve to the right which has a radius of 20.00 feet a central angle of 90°33'18" a chord which bears North 44°41'30" East a distance of 28.42 feet to a set ½" rebar with cap marked TX 5152;

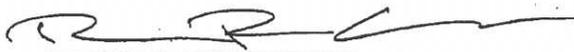
Thence North 89°58'09" East a distance of 1213.05 feet to a set ½" rebar with cap marked TX 5152 for a point of curve;

Thence 39.03 feet along the arc of a curve to the right which has a radius of 25.00 feet a central angle of 89°26'22" a chord which bears South 45°18'40" East a distance of 35.18 feet to a set ½" rebar with cap marked TX 5152;

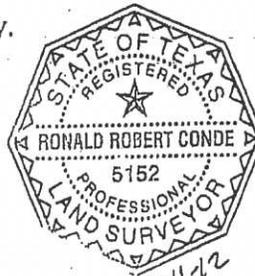
Thence South 00°35'30" East a distance of 60.25 feet to a set ½" rebar with cap marked TX 5152;

Thence South 89°58'09" West a distance of 1258.01 feet to the "TRUE POINT OF BEGINNING" and containing 106,711.6128 Square Feet or 2.4498 acres of land more or less.

Note: A drawing of even date accompanies this survey.

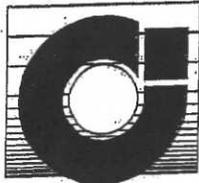


Ron R. Conde
R.P.L.S. No. 5152



job #_308-87

CONDE, INC.
ENGINEERING / LAND SURVEYING / PLANNING
6080 SURETY DRIVE, SUITE 100 / EL PASO, TEXAS 79905 / (915) 592-0283
FAX (915) 592-0286



CONDE INC.

Tierra Del Este Linear Park
Landscape and Irrigation Preliminary Cost Estimate
5-Nov-12

EXHIBIT C

Item No.	Unit of Measure	Description	Unit Price	Quantity	Cost
1	S.F.	3/4 Padre Canyon Screening	\$0.90	48,000	\$43,200.00
4	S.F.	Sod, Irrigation, BP, Sprinklers	\$1.75	385720	\$675,010.00
8	Each	Trees	\$300.00	214	\$64,200.00
9	Perch	Containment Rockwall	\$75.00	940	\$70,500.00
10	Each	Playgrounds	\$70,000.00	2	\$140,000.00
11	Each	Benches	\$500.00	8	\$4,000.00
12	Each	Picnic Tables	\$2,000.00	12	\$24,000.00
13	L.F.	Header Curb	\$8.00	10705	\$85,640.00
14	S.Y.	Asphalt Jogging Trail	\$17.00	2100	\$35,700.00
		Sub Total			\$1,142,250.00
		10% Contingency			\$114,225.00
		Total			\$1,256,475.00