

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

**DEPARTMENT:** Financial Services

**AGENDA DATE:** Introduction January 6, 2011  
Public Hearing January 11, 2011

**CONTACT PERSON NAME AND PHONE NUMBER:** Liza Ramirez-Tobias (915) 541-4074

**DISTRICT(S) AFFECTED:** District 8, Rep. O'Rourke

**SUBJECT:**

An Ordinance authorizing the City Manager to sign a contract of sale and any other necessary documents between the City of El Paso and the George L. Hermann Living Trust which will allow the City to convey a portion of Block 302, Pierce Findley Addition, together with vacated portions of Pierce Street and an alley adjacent to the identified portion of Block 302, Pierce Finley Addition, an Addition to the City of El Paso, El Paso County, Texas.

**BACKGROUND / DISCUSSION:**

In accordance with Section 272.001 of the Texas Local Government Code, staff had recommended that the identified parcels be sold to the abutting property owner because the shape and the size of the parcel it cannot be used independently under the City's current zoning or under applicable subdivision or other development control ordinances. The parcel is approximately .03 acres or 1306 square feet. The purchase price will be the appraised value of \$6,900. The appraisal was done by Ralph Sellers & Associates. The Buyer will be responsible for closing costs.

**PRIOR COUNCIL ACTION:**

**AMOUNT AND SOURCE OF FUNDING:**

None

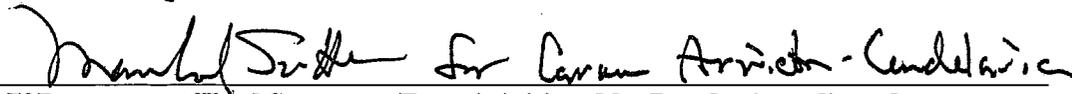
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**BOARD / COMMISSION ACTION:**

CARE recommends approval

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

**DEPARTMENT HEAD:**

  
(If Department Head Summary Form is initiated by Purchasing, client department should sign also)

*Information copy to appropriate Deputy City Manager*

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

**AN ORDINANCE AUTHORIZING THE CITY MANAGER TO SIGN A CONTRACT OF SALE AND ANY OTHER NECESSARY DOCUMENTS BETWEEN THE CITY OF EL PASO AND THE GEORGE L. HERMANN LIVING TRUST WHICH WILL ALLOW THE CITY TO CONVEY A PORTION OF BLOCK 302, PIERCE FINLEY ADDITION, TOGETHER WITH VACATED PORTIONS OF PIERCE STREET AND AN ALLEY ADJACENT TO THE IDENTIFIED PORTION OF BLOCK 302, PIERCE FINLEY ADDITION, AN ADDITION TO THE CITY OF EL PASO, EL PASO COUNTY, TEXAS,**

**WHEREAS**, the City of El Paso staff has recommended the sale the following property:

A 0.03 acre parcel of land being a portion of Block 302, Pierce Finley Addition, together with those portions of Pierce Street and an alley adjacent to the identified portion of Block 302, Pierce Finley Addition, an Addition to the City of El Paso, El Paso County, Texas, and

**WHEREAS**, in accordance with Section 272.001 of the Texas Local Government Code, City staff has recommended that the identified parcels be sold to the abutting property owner because of the shape of the parcel and its small area it cannot be used independently under the City's current zoning or under applicable subdivision or other development control ordinances; and

**WHEREAS**, the George L. Hermann Living Trust is the abutting property owner for the identified parcel; and,

**WHEREAS**, the City of El Paso has received an independent appraisal of the market value of for its interest in the identified property; and

**WHEREAS**, The George L. Hermann Living Trust is willing to pay the appraised value of \$6,900.00 for the identified property,

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

That the City Manager be authorized to sign a Contract of Sale and all other necessary documents, in a form approved by the City Attorney's Office, conveying the following property to The George L. Hermann Living Trust:

A 0.03 acre, more or less, parcel of land being a portion of Block 302, Pierce Finley Addition, together with those vacated portions of Pierce Street and an alley adjacent to said portion of Block 302, Pierce Finley Addition, an addition to the City of El Paso, El Paso County, Texas, and being more particularly described by metes and bounds in Exhibit "A" attached hereto and made a part hereof for all purposes.

PASSED AND APPROVED THIS \_\_\_\_\_ day of \_\_\_\_\_, 2011.

CITY OF EL PASO

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

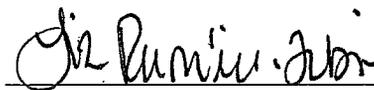
ATTEST:

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

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Theresa Cullen  
Deputy City Attorney

APPROVED AS TO CONTENT:

  
\_\_\_\_\_  
Liza Ramirez-Tobias  
Capital Assets Manager

# Barragan & Associates Inc.

Land Planning & Land Surveying

10950 Pellicano Dr., Building "F", El Paso, Texas 79935 Ph. (915) 591-5709 Fax(915) 591-5706

## DESCRIPTION

DESCRIPTION of a parcel of land being a portion of Block 302 Pierce Finley Addition, together with those portions of Pierce Street and an alley adjacent to said portion of Block 302, Pierce Finley Addition to the City of El Paso, El Paso County, Texas, , and being more particularly described by metes and bounds as follows:

COMMENCING for reference at a found city monument located 10' NE of the centerline intersection of Brown Street and River Street, from whence a city monument located 10' NE of the centerline intersection of Brown Street and Arizona Avenue bears, S 37°37'00" E (bearing basis), along said monument line of Brown Street, a distance of 989.85 feet; THENCE, N 37°37'00" W, along said monument line, a distance of 329.6 feet to a point on the Collins Survey No. 209 (as shown on the plat of survey by J.R. Parrish LSLs, dated February 1947); THENCE, S 90°00'00" W, along the south line of said Collins Survey No. 209 (as shown on the plat of survey by J.R. Parrish LSLs, dated February 1947), a distance of 852.57 feet to a point on the northerly right-of-way line of Cliff Street, said point also being the POINT OF BEGINNING of this parcel;

THENCE, along the northerly right-of-way line of Cliff Street, 104.75 feet along an arc of a curve to the left, with an interior angle of 10°50'38", a radius of 553.48 feet, and a chord which bears, S 17°17'38" W, a distance of 104.60 feet to a point for corner;

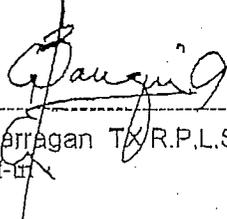
THENCE, N 37°36'02" W (N 37°37'00" W-city of El Paso plat), along the centerline of Pierce Street (closed street), a distance of 6.07 feet to a point on the intersection of the centerline of said Pierce Street with the common line of the easterly line of Alexander Addition and the westerly line of Pierce Finley Addition;

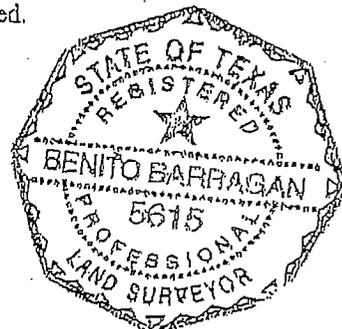
THENCE, N 00°00'00" W, along said common line, a distance of 95.06 feet to the southwest corner for Collins Survey No. 209 and the northwesterly corner for said Block 302, Pierce Finley Addition;

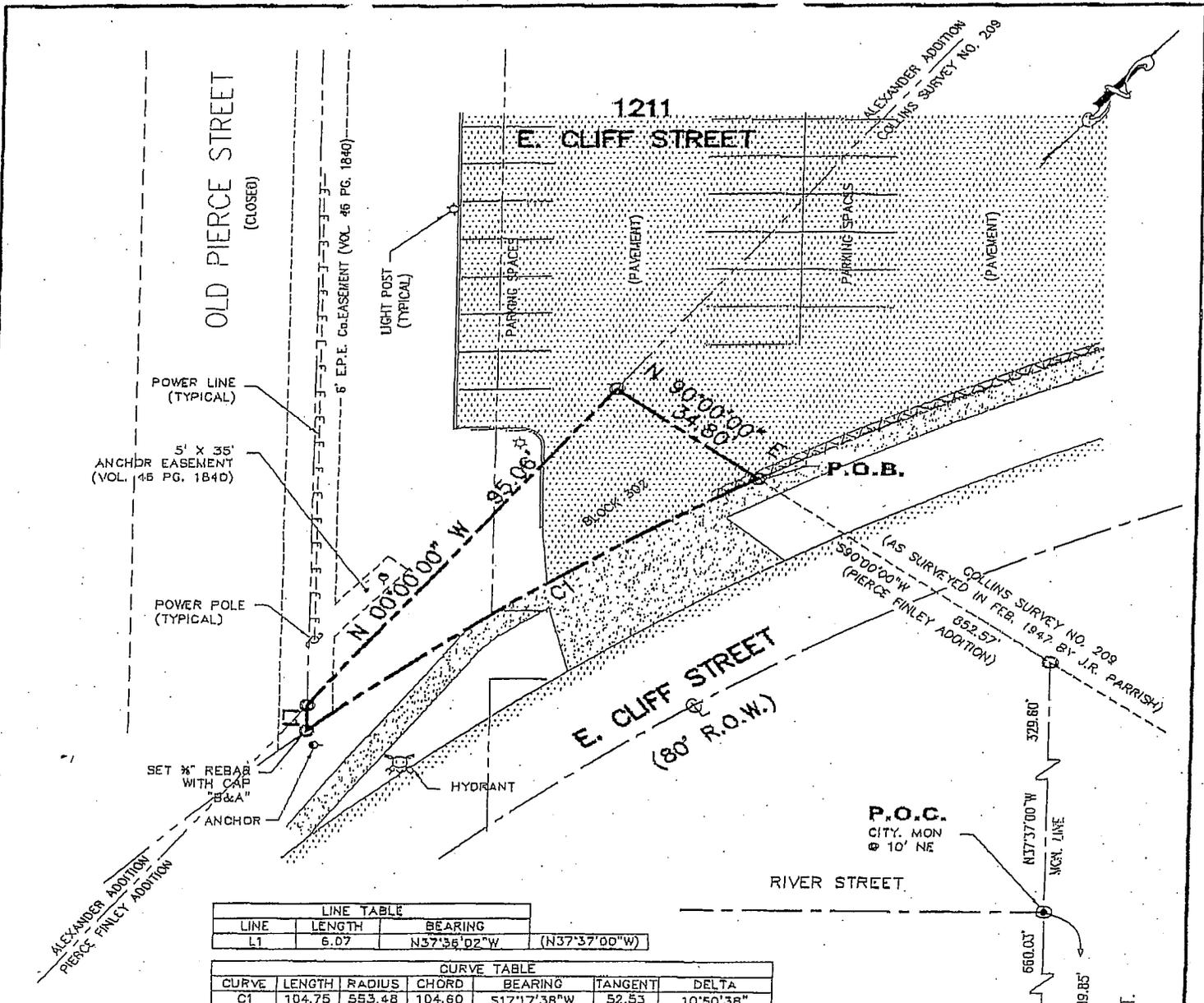
THENCE, N 90°00'00" E, along the south line of said Collins Survey No. 209 (as shown on the plat of survey by J.R. Parrish LSLs, dated February 1947), and the northerly line of said Block 302, Pierce Finley Addition, a distance of 34.80 feet the POINT OF BEGINNING of this parcel and containing in all 0.03 acres of land more or less.

### Notes:

1. Bearings recited herein are based on the monument line for Brown Street, as shown on the plat of survey for Collins Survey No. 209, by J.R. Parrish LSLs, dated February 1947.
2. A Parcel Plan of even date accompanies this description. Not a ground survey.
3. This property may be subject to easements whether of record or not.
4. This description includes portions out of Block 302, Pierce Finley Addition, portions of streets and
5. A subdivision process may be required, this does not intent to be a subdivision process, and it is the responsibility of the client/owner to verify if the subdivision process is required.

  
Benito Barragan T.R.P.L.S. 5615, November 09, 2009  
1211 cliff-st





LINE TABLE			
LINE	LENGTH	BEARING	
L1	6.07	N37°36'02"W (N37°37'00"W)	

CURVE TABLE						
CURVE	LENGTH	RADIUS	CHORD	BEARING	TANGENT	DELTA
C1	104.75	553.48	104.60	S17°17'38"W	52.53	10°50'38"

**NOTE:**

- SUBJECT PROPERTY SHOWN HEREON APPEARS TO BE LOCATED IN ZONE "C" AS PER F.I.R.M. PANEL NUMBER 39B, LAST REVISION DATE OCTOBER 15, 1982. THIS SURVEYOR MAKES NO GUARANTEES AS TO THE ACCURACY OF THE ABOVE INFORMATION. THE LOCAL F.E.M.A. AGENT SHOULD BE CONTACTED FOR VERIFICATION.
- BEARINGS RECITED HEREIN ARE BASED ON THE MONUMENT LINE FOR BROWN STREET, AS SHOWN ON THE PLAN OF SURVEY FOR COLLINS SURVEY NO. 209, BY J.R. PARRISH L.S.L.S., DATED FEBRUARY 1947.
- THIS PROPERTY MAY BE SUBJECT TO EASEMENTS WHETHER OF RECORD OR NOT, (NOT SHOWN).
- THE PROPERTY OWNERS ARE SOLELY RESPONSIBLE FOR COMPLYING WITH ALL TITLE COMMITMENT PROVISIONS AND CONFIRMING THE SIZE AND USE OF ALL RECORDED EASEMENTS PERTAINING TO THIS PROPERTY, IN SPITE OF THE ACCURACY OR DEFECTS OF THIS PLAN.
- THIS SURVEY WAS DONE FOR TITLE INSURANCE ONLY, AND SHALL NOT BE USED FOR CONSTRUCTION OR OTHER PURPOSES.
- THIS SURVEY WAS DONE WITHOUT THE BENEFIT OF A TITLE COMMITMENT.
- A SUBDIVISION PROCESS MAY BE REQUIRED, THIS DOES NOT INTEND TO BE A SUBDIVISION PROCESS, AND IT IS THE RESPONSIBILITY OF THE CLIENT/OWNER TO VERIFY IF THE SUBDIVISION PROCESS IS REQUIRED.
- A NARRATIVE DESCRIPTION OF EVEN DATE ACCOMPANIES THIS PLAN.
- NOT A GROUND SURVEY.

Exhibit "A"  
Page 2 of 2

**Barragan & Associates Inc.**  
LAND PLANNING & SURVEYING  
10950 Pellcano Dr. Building-F,  
El Paso, Tx 79935  
Phone (815) 591-5708 Fax (815) 591-5706

**Parcel Plan**  
BEING A PORTION OF BLOCK 302  
PIERCE FINLEY ADDITION,  
TOGETHER WITH THOSE PORTIONS OF  
PIERCE STREET AND AN ALLEY  
ADJACENT TO SAID PORTION OF BLOCK 302,  
PIERCE FINLEY ADDITION TO  
THE CITY OF EL PASO,  
EL PASO COUNTY, TEXAS.  
AREA 0.03 ACRES ±

Plot reference vol/bk NA pages NA  
Scale 1"=30' Date 12/09/09 Drawn by OE

**STATE OF TEXAS**  
REGISTERED  
**BENITO BARRAGAN**  
5615  
PROFESSIONAL  
LAND SURVEYOR

Benito Barragan, R.P.L.S. TX, No. 5615  
Job No. 091207-09 Copy Rights ©

STATE OF TEXAS       §  
                                  §  
COUNTY OF EL PASO   §

**CONTRACT OF SALE**

This Agreement is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2011, by and between the City of El Paso, hereinafter referred to as the "City" and the George L. Hermann Living Trust, 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 0.03 acre, more or less, parcel of land being a portion of Block 302, Pierce Finley Addition, together with those portions of Pierce Street and an alley adjacent to said portion of Block 302, Pierce Finley Addition an addition to the City of El Paso, El Paso County, Texas, and being more particularly described by metes and bounds in Exhibit "A" attached hereto and made a part hereof for all purposes,

together with any interest in (i) all improvements, if any, (ii) all right, title and interest of the City in and to any 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, and (iii) all ground water, water rights or rights to surface water will be subject to all easements, restrictions, reservations, right of ways, dedications, and other encumbrances of record or apparent upon the real property (including any right to drill a well and produce therefrom any quantity of groundwater), all of such property, hereinafter collectively referred to as the "Property." In addition, the following conditions will be applicable to the City's sale of the Property:

1.1 **Radioactive Materials.** Any conveyance of this Property will be subject to a restrictive covenant to the effect that the Buyer, its successors or assigns, will not, for discard, place, or store upon such land, in violation of any applicable laws, any radioactive material or other materials which would contaminate or otherwise damage the ground water supply or resources of the City.

1.2 **Surveys.** The Buyer accepts responsibility for conducting its own archeological and environmental surveys of the Property. Any 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 their complete inspection of the Property.

1.3 **Use.**

1.3.1 Easements for water and wastewater lines, if not located in public streets, shall be provided at no cost to the Seller or its Public Service Board.

1.3.2 All ground water, water rights, or rights to surface water shall be reserved to the Seller.

2. **Consideration.** The consideration for the Property shall be SIX THOUSAND NINE HUNDRED and 00/100 Dollars (\$6,900.00), plus any additional closing costs 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.

3. **Conditions to the Buyer's Obligations.** The obligations of the Buyer hereunder is 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 City's acceptance of the Buyer's offer, the Buyer shall provide the City with all information necessary to close the sale with the intent that, without good cause existing or further delay, it is anticipated that the City 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"), 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 City 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. City may promptly undertake to eliminate or modify all unacceptable matters to the reasonable satisfaction of the Buyer. Otherwise, this condition will be deemed acceptable and any objection by the Buyer will be deemed waived.

4. **Representations of City.** The City 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 City, 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 City'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 City 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 City.

- 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.
- 4.5 **Compliance Law.** All laws, ordinances, rules and regulations of any Government or any agency, body or subdivision thereof, bearing in the development of the Property, have been complied with.
- 4.6 **Taxes.** While the City owned the Property, the Property was exempt from ad valorem taxes.
- 4.7 **Pre-Closing Claims.** City agrees that the Buyer's acceptance of title to the Property under the conveyance documents should not create any liability on the Buyer's part to third parties that have claims of any kind against the City in connection with the Property. The City hereby expressly disclaims any and all liability to third parties that have any claims against the City.
- 4.8 **Condition of Property Prior to Closing.** Prior to Closing, the City shall not create or permit to be created any easement or other condition affecting the Property without the prior written consent of the Buyer.
- 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, WHERE IS, AND WITH ALL FAULTS, AND EXCEPT AS THE WARRANTY OF TITLE, WITHOUT ANY REPRESENTATIONS OR WARRANTIES OF WHATSOEVER KIND, EXPRESS OR IMPLIED, WRITTEN OR ORAL, IT BEING THE INTENTION OF THE CITY 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 AND THE CONDITION; (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 CITY. 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 CITY 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 CITY 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 BUYER SUBJECT TO THE FOREGOING.

- 4.10 **ENVIRONMENTAL MATTERS.** AFTER CLOSING, BETWEEN THE CITY AND THE BUYER, THE RISK OF LIABILITY OR EXPENSE FOR ENVIRONMENTAL PROBLEMS, EVEN IF ARISING FROM EVENTS BEFORE CLOSING, WILL BE THE SOLE RESPONSIBILITY OF THE BUYER, REGARDLESS OF WHETHER THE ENVIRONMENTAL PROBLEMS WERE KNOWN OR UNKNOWN AT CLOSING ONCE CLOSING HAS OCCURRED, THE BUYER INDEMNIFIES, HOLDS HARMLESS, AND RELEASES THE CITY 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 BUYER INDEMNIFIES, HOLDS HARMLESS AND RELEASES THE CITY FROM ANY LIABILITY FOR ENVIRONMENTAL PROBLEMS AFFECTING THE PROPERTY ARISING AS THE RESULT OF THE CITY'S OWN NEGLIGENCE OR THE NEGLIGENCE OF THE CITY'S REPRESENTATIVES.** THE BUYER INDEMNIFIES, HOLDS HARMLESS, AND RELEASES THE CITY 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 CITY IN THIS TYPE OF TRANSACTION NEW LIABILITIES FOR ENVIRONMENTAL PROBLEMS AFFECTING THE PROPERTY.

4.11 **Survival.** All agreements of the City 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 Sierra Title Company, 4115 N. Mesa, Suite 100, El Paso, Texas 79903 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 City, subject to delays due to the City's efforts to cure any title objection under Section 3.2.

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

5.2 **Closing Costs.**

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

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

(c) The City and the Buyer shall bear its own attorney's fees.

5.3 **City's Obligations.** At Closing, the City shall deliver to the Buyer a duly executed and acknowledged Quitclaim 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 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 4 above.

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

6. **Default.**

6.1 **Breach by City.** In the event that the City 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 City agrees to absorb the cost of any costs the City may have incurred in preparation for the conveyance 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 City's default, or the termination of

this Agreement in accordance with its terms, the Buyer agrees reimburse the City for any costs it may have incurred in the preparation for the conveyance of the Property.

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:

City: Joyce A. Wilson  
City Manager  
City of El Paso  
2 Civic Center Plaza  
El Paso, Texas 79901-1196

Buyer: The George L. Hermann Living Trust  
George L. Hermann, Trustee  
1432 E. Venice #104272  
Venice, FL 34292

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

obtain 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 \_\_\_\_\_, 2011.

**THE CITY OF EL PASO**

\_\_\_\_\_  
Joyce Wilson,  
City Manager

**APPROVED AS TO FORM:**

*Theresa Cullen*  
Theresa Cullen  
Deputy City Attorney

**APPROVED AS TO CONTENT:**

*Liza Ramirez-Tobias*  
Liza Ramirez-Tobias  
Capital Assets Manager

**ACKNOWLEDGMENT**

STATE OF TEXAS        )  
                                  )  
COUNTY OF EL PASO    )

This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, 2011, by Joyce Wilson, as City Manager of the City of El Paso, Texas.

My Commission Expires:

\_\_\_\_\_

\_\_\_\_\_  
Notary Public, State of Texas  
Notary's name printed:

\_\_\_\_\_

(Signatures continue on next page)



# Barragan & Associates Inc.

Land Planning & Land Surveying

10950 Pellicano Dr., Building "F", El Paso, Texas 79935 Ph. (915) 591-5709 Fax(915) 591-5706

## DESCRIPTION

**DESCRIPTION** of a parcel of land being a portion of Block 302 Pierce Finley Addition, together with those portions of Pierce Street and an alley adjacent to said portion of Block 302, Pierce Finley Addition to the City of El Paso, El Paso County, Texas, , and being more particularly described by metes and bounds as follows:

**COMMENCING** for reference at a found city monument located 10' NE of the centerline intersection of Brown Street and River Street, from whence a city monument located 10' NE of the centerline intersection of Brown Street and Arizona Avenue bears, S 37°37'00" E (bearing basis), along said monument line of Brown Street, a distance of 989.85 feet; **THENCE**, N 37°37'00" W, along said monument line, a distance of 329.6 feet to a point on the Collins Survey No. 209 (as shown on the plat of survey by J.R. Parrish LSLs, dated February 1947); **THENCE**, S 90°00'00" W, along the south line of said Collins Survey No. 209 (as shown on the plat of survey by J.R. Parrish LSLs, dated February 1947), a distance of 852.57 feet to a point on the northerly right-of-way line of Cliff Street, said point also being the **POINT OF BEGINNING** of this parcel;

**THENCE**, along the northerly right-of-way line of Cliff Street, 104.75 feet along an arc of a curve to the left, with an interior angle of 10°50'38", a radius of 553.48 feet, and a chord which bears, S 17°17'38" W, a distance of 104.60 feet to a point for corner;

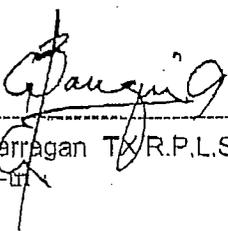
**THENCE**, N 37°36'02" W (N 37°37'00" W-city of El Paso plat), along the centerline of Pierce Street (closed street), a distance of 6.07 feet to a point on the intersection of the the centerline of said Pierce Street with the common line of the easterly line of Alexander Addition and the westerly line of Pierce Finley Addition;

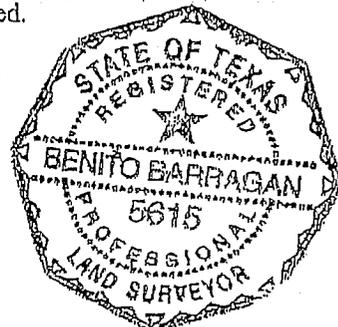
**THENCE**, N 00°00'00" W, along said common line, a distance of 95.06 feet to the southwest corner for Collins Survey No. 209 and the northwesterly corner for said Block 302, Pierce Finley Addition;

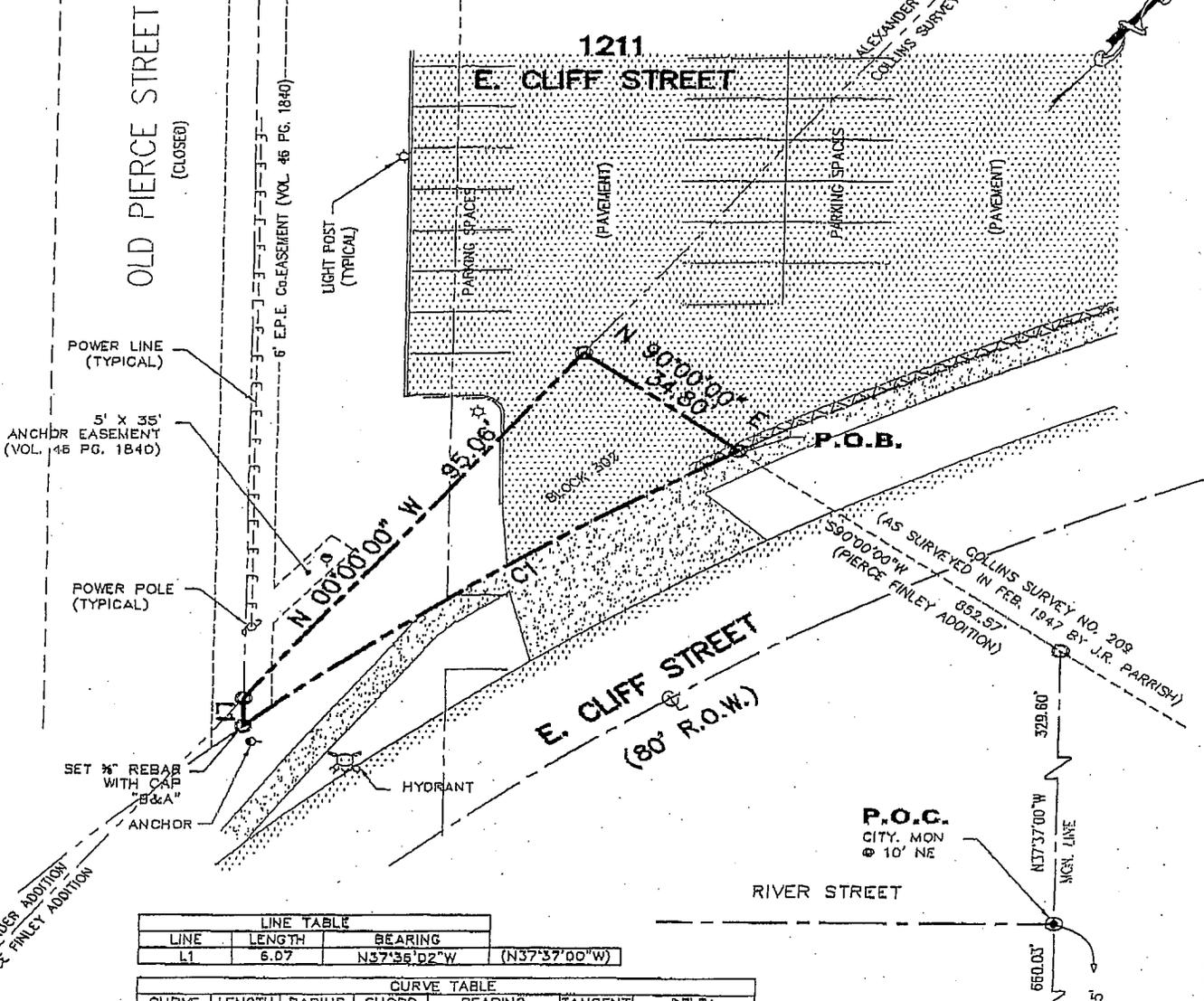
**THENCE**, N 90°00'00" E, along the south line of said Collins Survey No. 209 (as shown on the plat of survey by J.R. Parrish LSLs, dated February 1947), and the northerly line of said Block 302, Pierce Finley Addition, a distance of 34.80 feet the **POINT OF BEGINNING** of this parcel and containing in all 0.03 acres of land more or less.

### Notes:

1. Bearings recited herein are based on the monument line for Brown Street, as shown on the plat of survey for Collins Survey No. 209, by J.R. Parrish LSLs, dated February 1947.
2. A Parcel Plan of even date accompanies this description. Not a ground survey.
3. This property may be subject to easements whether of record or not.
4. This description includes portions out of Block 302, Pierce Finley Addition, portions of streets and
5. A subdivision process may be required, this does not intent to be a subdivision process, and it is the responsibility of the client/owner to verify if the subdivision process is required.

  
-----  
Benito Barragan T&R.P.L.S. 5615, November 09, 2009  
1211 cliff-st





LINE TABLE					
LINE	LENGTH	BEARING			
L1	6.07	N37°36'02"W (N37°37'00"W)			

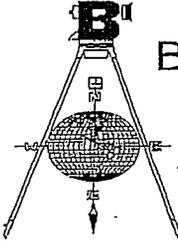
  

CURVE TABLE						
CURVE	LENGTH	RADIUS	CHORD	BEARING	TANGENT	DELTA
C1	104.75	553.48	104.60	S17°17'38"W	52.53	10°50'38"

**NOTES:**

- SUBJECT PROPERTY SHOWN HEREON APPEARS TO BE LOCATED IN ZONE "C", AS PER F.I.R.M. PANEL NUMBER 39B, LAST REVISION DATE OCTOBER 15, 1982. THIS SURVEYOR MAKES NO GUARANTEES AS TO THE ACCURACY OF THE ABOVE INFORMATION. THE LOCAL F.E.M.A. AGENT SHOULD BE CONTACTED FOR VERIFICATION.
- BEARINGS RECITED HEREIN ARE BASED ON THE MONUMENT LINE FOR BROWN STREET, AS SHOWN ON THE PLAT OF SURVEY FOR COLLINS SURVEY NO. 209, BY J.R. PARRISH L.S.L.S., DATED FEBRUARY 1947.
- THIS PROPERTY MAY BE SUBJECT TO EASEMENTS WHETHER OF RECORD OR NOT, (NOT SHOWN).
- THE PROPERTY OWNERS ARE SOLELY RESPONSIBLE FOR COMPLYING WITH ALL TITLE COMMITMENT PROVISIONS AND CONFIRMING THE SIZE AND USE OF ALL RECORDED EASEMENTS PERTAINING TO THIS PROPERTY, IN SPITE OF THE ACCURACY OR DEFECTS OF THIS PLAT.
- THIS SURVEY WAS DONE FOR TITLE INSURANCE ONLY, AND SHALL NOT BE USED FOR CONSTRUCTION OR OTHER PURPOSES.
- THIS SURVEY WAS DONE WITHOUT THE BENEFIT OF A TITLE COMMITMENT.
- A SUBDIVISION PROCESS MAY BE REQUIRED, THIS DOES NOT INTENT TO BE A SUBDIVISION PROCESS, AND IT IS THE RESPONSIBILITY OF THE CLIENT/OWNER TO VERIFY IF THE SUBDIVISION PROCESS IS REQUIRED.
- A NARRATIVE DESCRIPTION OF EVEN DATE ACCOMPANIES THIS PLAN.
- NOT A GROUND SURVEY.

Exhibit "A"  
Page 2 of 2



**Barragan & Associates Inc.**

LAND PLANNING & SURVEYING  
10950 Pellicano Dr. Building-F,  
El Paso, Tx 79935  
Phone (815) 591-5709 Fax (815) 591-5706

**Parcel Plan**  
BEING A PORTION OF BLOCK 302  
PIERCE FINLEY ADDITION,  
TOGETHER WITH THOSE PORTIONS OF  
PIERCE STREET AND AN ALLEY  
ADJACENT TO SAID PORTION OF BLOCK 302,  
PIERCE FINLEY ADDITION TO  
THE CITY OF EL PASO,  
EL PASO COUNTY, TEXAS.  
AREA 0.03 ACRES ±

Plat reference vol/bk NA pages NA  
Scale 1"=30' Date 12/09/09 Drawn by OE



Benito Barragan, R.P.L.S. TX, No. 5615  
Job No. 091207-09 Copy Rights ©



SCHUSTER

CLIFF

BROWN

Subject Property