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

DEPARTMENT: **Financial Services**

AGENDA DATE: **Introduction February 2, 2010**
Public Hearing February 9, 2010

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

DISTRICT(S) AFFECTED: District 6, Rep. Holguin

SUBJECT:
An ordinance authorizing the City of El Paso to sell approximately 1,856 square feet, being a portion of O.A. Danielson Survey, Number 315, El Paso, El Paso County, Texas, to the State of Texas, acting by and through the Texas Department of Transportation, said parcel to be included in a highway construction project for IH-10 at loop 375.

BACKGROUND / DISCUSSION:
The Texas Department of Transportation (TxDOT) has requested that the City of El Paso convey approximately 1,856 square feet or 0.0426 acres, being a portion of O.A. Danielson Survey, Number 315, El Paso, El Paso County Texas, to the State of Texas, acting by and through the Texas Department of Transportation, the parcel is to be included in a highway Construction Project for IH-10 at LOOP 375. TxDOT has offered the City of El Paso Three Thousand, Nine Hundred Thirty-Four and no/100 Dollars ($3,934.00), for the purchase of the identified parcel, which is the appraised value. Property was appraised by Martha Gayle Reid, MAI.
Section 272.001 of the Texas Local Government Code provides that a political subdivision of the state may convey real property interest to a governmental entity that has the power of eminent domain without the statutory required notice and bidding requirements. It is in the public interest to convey the identified property to the State of Texas for the I-10 Loop 375. TxDOT has agreed to pay all closing costs.

PRIOR COUNCIL ACTION:

AMOUNT AND SOURCE OF FUNDING: None

BOARD / COMMISSION ACTION:

CARE recommends the sale

*********************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 OF EL PASO TO SELL APPROXIMATELY 1,856 SQUARE FEET, BEING A PORTION OF O.A. DANIELSON SURVEY, NUMBER 315, EL PASO, EL PASO COUNTY, TEXAS, TO THE STATE OF TEXAS, ACTING BY AND THROUGH THE TEXAS DEPARTMENT OF TRANSPORTATION, SAID PARCEL TO BE INCLUDED IN A HIGHWAY CONSTRUCTION PROJECT FOR IH-10 AT LOOP 375.

WHEREAS, the Texas Transportation Commission has been authorized under the Texas Transportation Code Chapters 203, 224, and 361 to purchase land and such other property rights (including requesting that counties and municipalities acquire highway right of way) deemed necessary and convenient to a state highway or turnpike project to be constructed, reconstructed, maintained, widened, straightened, or extended, or to accomplish any other purpose related to the location, construction improvement, maintenance, beautification, preservation, or operation of a state highway or turnpike project, and including the acquisition of such other property rights deemed necessary for the purposes of operating a designated state highway or turnpike project, with control of access as necessary to facilitate the flow of traffic and promote the public safety and welfare on both non-controlled access facilities, as well as facilitating the construction, maintenance and operation of designated controlled access highways and turnpike projects; and

WHEREAS, the Texas Department of Transportation (TxDOT) has requested that the City of El Paso convey approximately 1,856 square feet, being a portion of O.A. Danielson Survey, Number 315, El Paso, El Paso County Texas, to the State of Texas, acting by and through the Texas Department of Transportation, said parcel to be included in a highway Construction Project for IH-10 at LOOP 375; and

WHEREAS, TxDOT has offered the City of El Paso Three Thousand, Nine Hundred Thirty-Four and no/100 Dollars ($3,934.00), for the purchase of the identified parcel, which is the appraised value; and

WHEREAS, the City of El Paso staff has recommended that the identified property, including the improvements thereon, be sold to the State of Texas for use in highway Construction Project for IH-10 at LOOP 375; and

WHEREAS, the State of Texas is a governmental entity that has the power of eminent domain; and

WHEREAS, Section 272.001 of the Texas Local Government Code provides that a political subdivision of the state may convey real property interest to a governmental entity that has the power of eminent domain without the statutory required notice and bidding requirements; and,

WHEREAS, the El Paso City Council finds that it is in the public interest to convey the identified property to the State of Texas.

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

That the City Manager is hereby authorized to sign the Acceptance of Proposal and any other necessary documents, in a form approved by the City Attorney's Office, conveying to the State of Texas, acting through its Texas Department of Transportation, the following identified real property, including the improvements thereon said parcel, to be included in a highway Construction Project for IH-10 at LOOP 375:

Approximately 1,856 square feet, being a portion of O.A. Danielson Survey, Number 315, El Paso, El Paso County Texas, more particularly described in Exhibit "A" attached hereto and made a part hereof for all purposes.

PASSED AND APPROVED THIS _____ day of _____, 2010.

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

Texas Department of Transportation

13301 GATEWAY BLVD. WEST • EL PASO, TEXAS 79928-5410 • (915) 790-4200

Date: January 21, 2010

The City of El Paso
c/o Ms. Liza Ramirez
Capital Assets Manager
2 Civic Center Plaza, Seventh Floor
El Paso, Texas 79901

County: El Paso
District: 24
Highway No.: IH 10/Loop 375
ROW CSJ No.: 2121-04-078
Federal Project No.: NH 2009 (630)
Limits: From FM 659 (Zaragoza Blvd.)
To Eastlake Blvd.
Parcel No.: 8-C

Dear Ms. Ramirez,

Our negotiations for highway right of way across your property have progressed to the point that you have indicated a willingness to sign a deed in return for payment as agreed to in our previous discussions. It is thought to be in the best interests of both you and the Texas Department of Transportation to confirm this agreement in order to avoid any possible misunderstanding as to the details of the purchase or the process by which the Department will make payment.

Your property consists of 1,856 square feet or 0.0426 acre of land, same being called a 0.0417 acre tract out of the O.A. Danielson Survey, Number 315, City of El Paso, El Paso County, Texas, described in deed to the City of El Paso, recorded in Volume 2834, Page 153 of the Official Public Records of Real Property of El Paso County, or more particularly described in Exhibit "A". The right of way being purchased by the Texas Department of Transportation has been thoroughly explained. The payment of the amount of $3,934.00 as herein agreed to will constitute full payment to be made by the Texas Department of Transportation for the property to be conveyed to the State. The State and Owner(s) have agreed to the following provisions:

Until payment is made by the State, title and possession of the property to be conveyed remain with you. You shall bear all risk of loss to any and all such property prior to such payment. Either you or the State shall have the right to terminate this agreement.

Additional Clauses: N/A

After the date of payment of the purchase price, The Texas Department of Transportation will be responsible for all expenses necessarily incurred in transferring title to the property for use by the Texas Department of Transportation.

The payment of the amount herein stated and the terms provided constitute the only promises, consideration and conditions of this purchase; and, no other promises, consideration or conditions have been signified or implied, save and except any benefits which may accrue to you under the State's Relocation Assistance Program and the mutual benefits to be derived by you and the Texas Department of Transportation from the signing of this agreement.

An Equal Opportunity Employer

The State, without cost to you as the owner, will pay the cost of recording all instruments conveying title to the State.

It is suggested that you carefully review the proposed deed and satisfy yourself (-selves) as to its (their) provisions. With your signing of this agreement and execution of the deed, the State will proceed with the issuance of a State warrant, which will be made out jointly to you and to Land America Lawyers Title of El Paso, Inc., agent for Lawyers Title Insurance Corporation. This company has been designated as the State's closing agent and is responsible to see that the Texas Department of Transportation obtains clear title. They will not endorse the warrant and make payment until clear title is secured. At the same time, you have the right not to endorse the warrant and accept payment until you are fully satisfied on all details of the transaction.

Sincerely,

Charles H. Berry Jr., P.E.
for District Engineer
Texas Department of Transportation, El Paso District

I (We) fully understand the Texas Department of Transportation's proposal as contained in this agreement and hereby acknowledge receipt of the brochure entitled *"Relocation Assistance."* I (We) understand that relocation assistance benefits are handled entirely separate from and in addition to this transaction.

For the City of El Paso

SSN or FEI No.

Name:

Title:

Approved as to Form

Date

Approved as to Content

HIGHWAY:	IH 10 at Loop 375
LIMITS:	From FM 659 (Zaragoza Blvd.) to Eastlake Blvd.
COUNTY:	El Paso
ACCOUNT NO.:	
ROW CSJ:	2121-04-078
OWNER:	The City Of El Paso

Property Description for Parcel 8C

Being 1,856 square feet or 0.0426 acre of land, same being a called 0.0417 acre tract out of the O. A. Danielson Survey, Number 315, City of El Paso, El Paso County, Texas, described in deed to The City of El Paso, recorded in Volume 2834, Page 153, of the Official Public Records of Real Property of El Paso County (O.P.R.R.P.E.C.) said 1,856 square feet or 0.0426 acre of land being more particularly described as follows:

COMMENCING at a City of El Paso monument found in the centerline of Rojas Drive, a (120 feet wide right-of-way) as described in deed to the County of El Paso, recorded in Volume 485, Page 40, to The City of El Paso a Municipal Corporation in Volume 2844, Page 541 and to the City of El Paso in Volume 1670, Page 960, of said O.P.R.R.P.E.C.;

THENCE South 43 degrees 29 minutes 12 seconds West, a distance of 60.00 feet to a point on the existing southwesterly right-of-way of said Rojas Drive;

THENCE South 46 degrees 38 minutes 33 seconds East, along said existing southwesterly right-of-way line of Rojas Drive, at a distance of 19.56 feet pass the most northerly corner of Lot 1, Block 1, Silver Gate Subdivision, a subdivision recorded in Volume 72, Page 20 of Plat Records of El Paso County (P.R.E.C.) continuing for a total distance of 209.57 feet to a P-K nail with washer set on the proposed northwesterly right-of-way line of Loop 375, for the northwest corner of said City of El Paso tract and the POINT OF BEGINNING of the herein described parcel, at 1,565.70 feet left of IH 10 Proposed Baseline Station 542+07.10;

1.) THENCE South 46 degrees 38 minutes 33 seconds East, continuing along the existing southwesterly right-of-way line of said Rojas Drive, a distance of 45.60 feet to a P-K nail with washer set at the intersection point of said existing southwesterly right-of-way of Rojas Drive and the existing northwesterly right-of-way of Loop 375 (width varies), a called 5.009 acre parcel designated Parcel 1 – Part 1, as described in deed to State of Texas recorded in Volume 285, Page 959, O.P.R.R.P.E.C. and northeast corner of said City of El Paso tract;

2.) THENCE South 41 degrees 12 minutes 48 seconds West, along said existing northwesterly right-of-way of Loop 375, a distance of 74.90 feet to a point for the common southeasterly corner of said City of El Paso tract and the remainder of a tract of land described in deed to Domecello Liquidating Trust recorded in Volume 1737, Page 2141 and Volume 1737, Page 2148, O.P.R.R.P.E.C.;

3.) THENCE, North 48 degrees 47 minutes 12 seconds West, along the line common to said Domecello Liquidating Trust reminder tract and City of El Paso tract, a distance of 20.50 feet to a point on the proposed right-of-way of IH 10 and southeasterly line of said Silver Gate Subdivision at the common westerly corner of same Domecello Liquidating Trust and City of El Paso tracts, at 1,493.24 feet left of IH 10 Proposed Baseline Station 542+42.41;

EXHIBIT A

4.) THENCE North 41 degrees 12 minutes 48 seconds East, along the proposed right-of-way line of IH 10 same being a line common to said Silver Gate Subdivision and said City of El Paso tract, a distance of 50.68 feet to a P-K nail with washer set for an angle point, at 1,543.44 feet left of IH 10 Proposed Baseline Station 542+35.48;

5.) THENCE North 02 degrees 49 minutes 19 seconds West, continuing along said proposed right-of-way line of IH 10 and said common line of Silver Gate Subdivision and City of El Paso tract, a distance of 36.06 feet to the POINT OF BEGINNING and containing 1,856 square feet or 0.0426 acre of land.

This property description is accompanied by a parcel plat of even date.

Notes:

Bearings and coordinates are based upon the Texas Coordinate System, Central Zone, NAD 83 (1993 Adjustment) and are referenced to NGS Stations with their respective published coordinates as shown, X1118 (CE0141) X=441,589.99776, Y=10,671,204.27749 and TX004A (AB6216) X=460,426.90951, Y=10,640,364.58281. All distances shown are surface values and may be converted to state plane by dividing by the surface adjustment factor of 1.00023100.

Access is prohibited across the "Access Denial Line" to the transportation facility from the adjacent property.

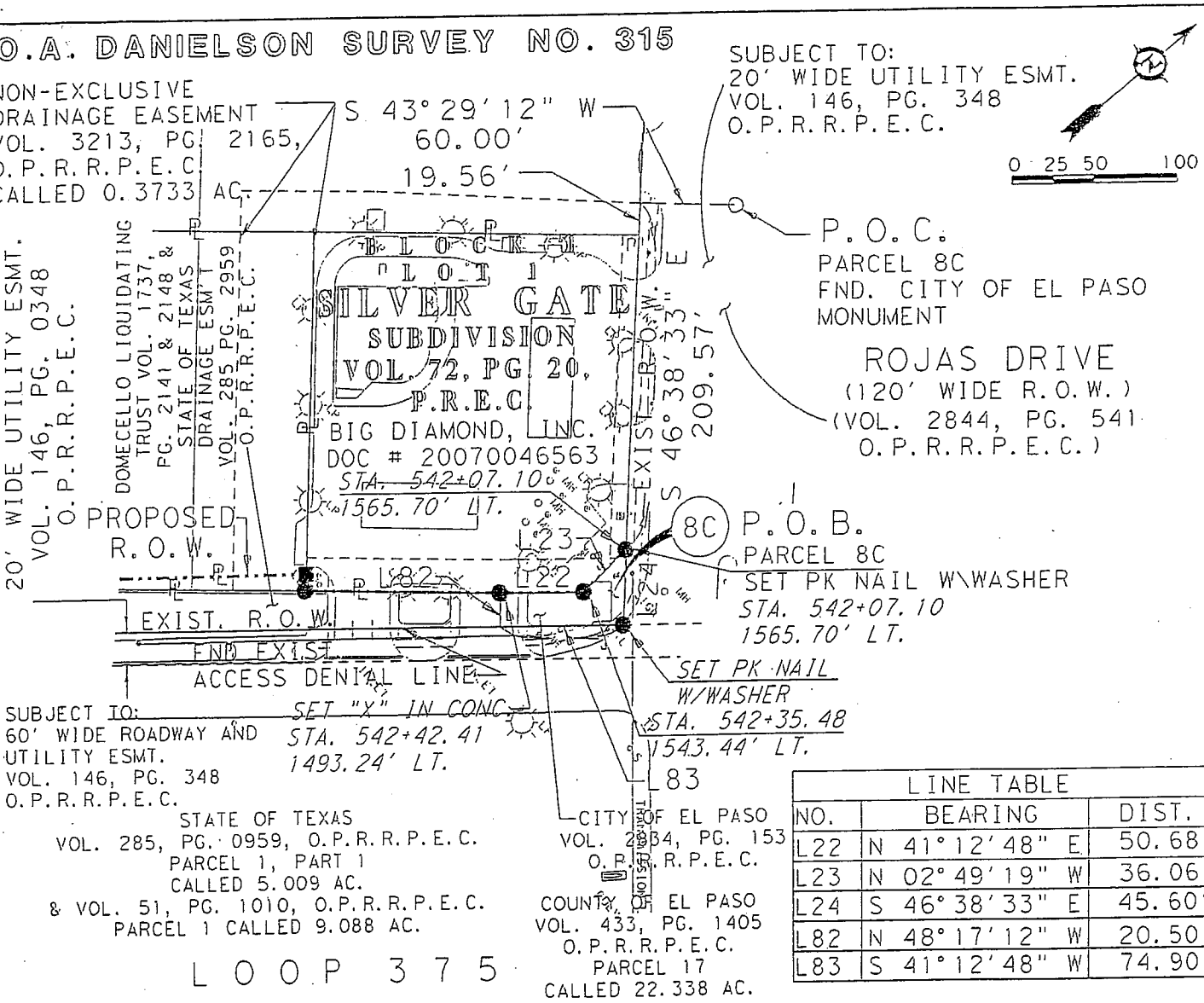
I, Scott M. Fertak, a Registered Professional Land Surveyor, do hereby certify that this property description is a true and correct representation of a survey made on the ground, under my direction and supervision.

Date: 31 day of October, 2008

Scott M. Fertak
Registered Professional Land Surveyor
No. 5257

EXHIBIT A

O.A. DANIELSON SURVEY NO. 315



LINE TABLE		
NO.	BEARING	DIST.
L22	N 41°12'48" E	50.68'
L23	N 02°49'19" W	36.06'
L24	S 46°38'33" E	45.60'
L82	N 48°17'12" W	20.50'
L83	S 41°12'48" W	74.90'

LEGEND

- EXIST. ROW LINE
- PROP. ROW LINE
- PROPERTY LINE (PL)
- COUNTY LINE
- PROPOSED ACCESS DENIAL LINE
- EXISTING ACCESS DENIAL LINE
- SURVEY LINE
- FENCE
- CITY LIMITS

P.R.E.C. - PLAT RECORDS EL PASO COUNTY
D.R.E.C. - DEED RECORDS EL PASO COUNTY
O.P.R.R.P.E.C. - OFFICIAL PUBLIC RECORDS OF REAL PROPERTY EL PASO COUNTY

SET TYPE II MONUMENT. (4" BRASS DISK IN CONC.) UNLESS NOTED.
PROPERTY CORNER FOUND AS NOTED.
SET 5/8" I.R. W/PLASTIC CAP UNLESS NOTED.
PARCEL NUMBER (X)

AREA TABLE (ACRES)			
EXISTING	TAKING	REMAINDER	
		LEFT	RIGHT
0.0426	0.0426		

EXHIBIT A

NOTES:

1. Deed research for this project was performed in November, 2005 and updated in May, 2008.
2. All coordinates and bearings shown hereon are referenced to the Texas Coordinate System, Central Zone, North American Datum of 1983 (1993 Adj). based upon NGS stations X1118 (CE0141) and TX040A (AB6216). All distances and coordinates shown are surface and may be converted to state plane by dividing by the surface adjustment factor of 1.00023100.
3. Field work for this project was performed Nov. 2003 through July, 2004.
4. This Right-of-way map was completed in August, 2008.
5. Survey line locations are approximate.

I HEREBY CERTIFY THAT THIS SURVEY WAS MADE ON THE GROUND UNDER MY SUPERVISION AND THAT THIS PLAT CORRECTLY REPRESENTS THE FACTS AS FOUND AT THE TIME OF THE SURVEY.
SURVEY DATE: AUGUST, 2008

STATE OF TEXAS REGISTERED SCOTT M. FERTAK 5257 PROFESSIONAL LAND SURVEYOR

SCOTT M. FERTAK
REGISTERED PROFESSIONAL LAND SURVEYOR
NO. 5257

PARCEL 8C
RIGHT OF WAY PLAT
SHOWING PROPERTY OF

CITY OF EL PASO

IH 10 EL PASO COUNTY

CSJ 2121-04-078

LANDTECH CONSULTANTS, INC. JUNE, 2008

 SCALE: 1" = 100'

Subject Property
JOE BATTLE
ROJAS
ROJAS
JOE BATTLE
LOOP 375 NORTH
ROJAS
LOOP 375 SOUTH
N