

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

DEPARTMENT: Financial Services Department

AGENDA DATE: April 20, 2010

CONTACT PERSON NAME AND PHONE NUMBER: Carmen Arrieta-Candelaria [(915) 541-4011

DISTRICT(S) AFFECTED: All Districts

SUBJECT:

APPROVE a resolution / ordinance / lease to do what? OR AUTHORIZE the City Manager to do what? Be descriptive of what we want Council to approve. Include \$ amount if applicable.

Discussion and action on a Resolution that the City Manager be authorized to sign a Lease Agreement by and between 88 Investments, Inc. and the City of El Paso regarding the use of the premises upon which the "Star on the Mountain" display is located for the purpose of maintaining and operating the Star. The term of the agreement is for fifty (50) years.

BACKGROUND / DISCUSSION:

Discussion of the what, why, where, when, and how to enable Council to have reasonably complete description of the contemplated action. This should include attachment of bid tabulation, or ordinance or resolution if appropriate. What are the benefits to the City of this action? What are the citizen concerns?

In August 2009, the ownership of the Star (i.e. equipment, lights, etc.) was transferred to the City of El Paso from the Greater El Paso Chamber of Commerce (the "Chamber"). At the same time, the City entered into an agreement with the Chamber to operate and maintain the Star on the Mountain. Part of the Chamber's responsibilities was to maintain a lease with 88 Investments, Inc., the company that owns the property where the Star resides. Such lease expires on April 30, 2010.

City staff has negotiated a long-term lease with 88 Investments that will extend from May 1, 2010 through April 30, 2060 for a nominal fee of \$10 plus costs for taxes and other assessments related to the real property, that are levied against the premises on an annual basis. In addition, the agreement proposes that the City be responsible for maintaining the roadway leading up to the Star that also provides access to the City and other tenants of 88 Investments as part of the consideration. The City proposes to budget for these costs in its capital program.

The El Paso Electric Company has indicated that they will continue to support the Star and its operation for the next year and City staff will continue to seek monetary support in future years.

PRIOR COUNCIL ACTION:

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

As noted above.

AMOUNT AND SOURCE OF FUNDING:

How will this item be funded? Has the item been budgeted? If so, identify funding source by account numbers and description of account. Does it require a budget transfer?

\$10 for the lease upon signing; approximately \$1,200 for taxes on an annual basis; up to \$25,000 combined with any O&M costs will come from the El Paso Electric Company in the upcoming term of the contract; funding will be requested on an annual basis.

BOARD / COMMISSION ACTION:

Enter appropriate comments or N/A

*****REQUIRED AUTHORIZATION*****

DEPARTMENT HEAD:

Carmen Arrieta-Candelaria

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

Information copy to appropriate Deputy City Manager

RESOLUTION

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

That the City Manager be authorized to sign a Lease Agreement by and between 88 Investments, Inc. ("Lessor") and the City of El Paso ("Lessee") regarding the use of the premises upon which the "Star on the Mountain" display is located for the purpose of maintaining, and operating the Star.

ADOPTED this _____ day of _____ 2010.

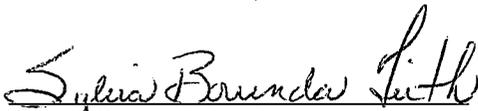
THE CITY OF EL PASO

John F. Cook
Mayor

ATTEST:

Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:



Sylvia Borunda Firth
Senior Assistant City Attorney

APPROVED AS TO CONENT:



Carmen Arrieta-Candelaria
Chief Financial Officer

LEASE AGREEMENT

THIS LEASE AGREEMENT ("Lease") is made effective the ____ day of _____, 2010, by and between **88 INVESTMENTS, INC.**, a Texas corporation, whose principal address is 807 South El Paso, El Paso, Texas 79901 ("Lessor"), and **THE CITY OF EL PASO**, a home rule municipal corporation whose principal office is located at Two Civic Center Plaza, El Paso, Texas 79901 ("Lessee").

In consideration of the mutual covenants and agreements hereinafter set forth, Lessor and Lessee hereby agree and covenant as follows:

ARTICLE I. DEMISE OF PREMISES; QUIET ENJOYMENT; PURPOSE

Section 1.01. Premises. Subject to and upon the terms, conditions, covenants and undertakings hereinafter set forth, Lessor does hereby demise and lease to Lessee, upon a non-exclusive basis (it being understood and agreed between the parties that Lessor and/or other tenants of Lessor shall also have the non-exclusive right to possession and use of such real property and improvements except the electrical installations, fixtures and other items of personal property that comprise the Star on the Mountain which shall be subject to the Lessee's sole use and possession); and Lessee does hereby rent from Lessor upon such non-exclusive basis, the real property and the improvements thereon located in El Paso County, Texas, such real property being more particularly described by metes and bounds on Exhibit "A" attached hereto (the "Premises").

Section 1.02. Quiet Enjoyment. Lessor covenants and agrees that upon Lessee paying rent and performing all of the covenants and conditions herein set forth, Lessee shall and may peaceably and quietly have, hold and enjoy the Premises demised, for the term herein provided.

Section 1.03. Purpose. The Premises shall be used by Lessee for maintaining, operating and displaying electrical lines, lights and equipment associated with the "Star On the Mountain" display.

ARTICLE II. TERM; MEMORANDUM

Section 2.01. Term of Lease. Subject to termination as hereinafter provided, the Term of this Lease shall be for a period of fifty (50) years commencing on May 1, 2010 and terminating April 30, 2060.

Section 2.02. Memorandum. At the request of either Lessor or Lessee, the parties shall execute a Memorandum of Lease in form and substance reasonably satisfactory to Lessor and Lessee.

**ARTICLE III.
CONSIDERATION FOR LEASE**

Section 3.01. Rent. Upon execution and delivery of the Lease, Lessee shall pay the sum of TEN and NO/100 Dollars (\$10.00) to Lessor. The rent to be paid by Lessee to Lessor shall be in lawful money of the United State of America and shall be paid without deduction or offset, prior notice or demand, at such place or places as may be designated from time to time by Lessor in writing.

Section 3.02. Additional Consideration. As additional consideration for the Lease, Lessee agrees that it will maintain the roadway that provides access to the Premises for the use of Lessor and the identified joint uses of the Premises. By signing this Lease, Lessor acknowledges that the roadway **is not** open to the public and shall in no way be considered a public street. It shall not be maintained to City of El Paso street standards but will be traversable to a fair weather standard that is adequate to provide access to the Premises.

**ARTICLE IV.
TAXES AND UTILITIES**

Section 4.01. Taxes and Assessments.

- A. Personal Property. Lessee shall pay, as and when the same shall become due and payable, all taxes and other assessments of whatsoever kind and nature which have been or may be levied against the personal property owned by Lessee and located in or about the Premises.

- B. Real Property. Lessee shall be responsible for payment of all taxes and assessments levied against the Premises during the lease term. Upon receipt of the notice of assessed value, Lessor shall forward it to Lessee at the address for notice below and Lessee will make payment directly to the County Tax Assessor Collector in a timely fashion.

Section 4.02. Utilities. Lessee shall pay and discharge all charges for telephone service, gas, water, sewage, electric power or other services furnished to or placed upon the Premises which are consumed by Lessee at the Premises during the term of this Lease.

**ARTICLE V.
CASUALTY INSURANCE, LIABILITY INSURANCE,
POLICY REQUIREMENTS AND INDEMNIFICATION**

Section 5.01. Fire and Casualty Insurance. Lessee, at its sole cost and expense, shall throughout the term of this Lease keep or cause to be kept all property of Lessee located in or upon the Premises insured for Lessee's benefit against loss or damage by fire and against loss or damage by other risks embraced by "extended coverage" and against civil commotions, riots, vandalism, malicious mischief in such an amount as Lessee may require.

Section 5.02. Liability Insurance. Lessor acknowledges that Lessee is self-insured for most types of risks that it may face and Lessee is not required under this Lease to otherwise obtain any liability insurance coverage protection for itself or for the benefit of Lessor.

In the event Lessee, or any agent of Lessee contracts with a third party to make improvements to the Premises. Lessee shall provide Lessor with notice at least 48 hours prior to the date the installation of the improvements and will provide Lessor with a certificate of insurance to evidence the fact Lessor is an additional named on a general liability policy.

Section 5.03. Warning Signs. During the Term of this Lease, Lessee shall, at Lessee's sole cost and expense, have displayed upon the Premises warning signs, in both Spanish and English languages, indicating and advising that: (1) the Premises is private property and that no trespassing is allowed; and (2) the Premises are dangerous.

Additionally, Lessee agrees to maintain the gate across the roadway at the entrance of the Premises at its expense, which shall remain locked at all times (see operational note). The gate shall be locked by a padlock. Each tenant and/or other persons who have a right of access to the Premises shall be provided a key for this padlock. The padlock shall be placed on a chain to be welded on the gate. A key, or if a combination lock, the combination, to the Lessor's padlock shall be provided to the Lessee within three (3) days of the date that the lock is placed on the gate. Lessee shall ensure that all persons entering the Premises at the direction of or on behalf of Lessee (Lessee's Invitees) shall keep the gate locked at all times. Lessor agrees that Lessee shall not be responsible for ensuring that persons other than Lessee's Invitees keep the gate locked.

Operational Note: The standard operating procedure on these Premises is that the gate shall be locked at all times **except** when the tenants and their vendors are performing maintenance or other construction work is in progress. This is to provide EMS, police, fire department and other emergency agencies easy access in case an accident should occur.

ARTICLE VI. MAINTENANCE, REPAIRS AND ALTERATIONS

Section 6.01. Lessor's Obligation. Lessor has NO obligations with respect to maintenance, repairs, or alterations of the Premises.

Section 6.02. Lessee's Obligation. Lessee shall throughout the Term of this Lease, at its own cost and expense, keep, maintain and preserve or cause to be kept, maintained and preserved: (i) Lessee's property and/or improvements upon the Premises in good order, condition and repair, ordinary wear and tear excepted; and (ii) the roadway within, or otherwise associated with, the Premises described upon Exhibit "A" attached hereto, in good order, condition, and repair.

Section 6.03. Alterations. Lessee shall not make any alterations, changes, improvements and additions in and to the Premises, other than replacements, repairs and upgrades, without the prior

written consent of Lessor, which consent shall not be unreasonably withheld, conditioned or delayed.

Section 6.04. Right of Entry and Inspection. Although Lessor shall have no responsibility or obligation to make such inspection or repairs, Lessee shall permit Lessor or Lessor's duly authorized agent, employee or representative to enter upon the Premises at all times for the purpose of inspecting the same.

ARTICLE VII. LIENS

Section 7.01. Liens. With respect to any alterations in or upon the Premises, and/or maintenance of the Premises or roadway, made by Lessee, Lessee shall pay or cause to be paid the total cost and expense thereof and shall not suffer or permit to be enforced against the Premises any mechanic's, materialman's, contractor's or subcontractor's lien arising from any such work, however it may arise, provided however, Lessee may in good faith and at its expense contest the validity of any such asserted lien, claim or demand, and in such an event.

ARTICLE VIII. CONDEMNATION

Section 8.01. Termination Upon Condemnation. Upon condemnation of part or all of the Premises, Lessee's obligations hereunder shall terminate on the date of taking, but Lessee's interest in the leasehold shall continue until the taking is completed by deed, contract or final order of condemnation.

Section 8.02. Distribution of Award for Condemnation. Upon condemnation of part or all of the Premises, all sums, including damages and interest, awarded for the fee, leasehold or both shall be distributed and disbursed to Lessor provided, however, that the Lessor shall have no interest in any award made to Lessee for the value of, depreciation to, or cost of removal of, Lessee's fixtures and other personal property located at the Premises if a separate award for such items is made to Lessee.

ARTICLE IX. DEFAULT

Section 9.01. Events of Default. Each of the following events shall be a default by Lessee and a breach of this Lease:

- (A) Lessee's permitting or otherwise suffering anything which creates a lien upon the Premises and fails, within thirty (30) days after receipt by Lessee of written notice thereof, either (i) to discharge such lien, (ii) post a satisfactory bond with respect to such lien, or (iii) otherwise post security acceptable to Lessor.

- (B) Lessee's becoming insolvent or making a transfer in fraud of creditors.
- (C) Lessee's filing a petition under any section or chapter of the Bankruptcy Reform Act of 1978, as amended, or under any similar law or statute of the United States or any State thereof; or Lessee's, or any guarantor of any of Lessee's obligations under this Lease, being adjudged bankrupt or insolvent in proceedings filed against Lessee or such guarantor.
- (D) Failure or refusal by Lessee to perform as required by this Lease (which obligation for purposes of this shall include, by way of example and without limitation, the obligation of Lessee to maintain the roadway), which failure continues for a period of thirty (30) days after written notice thereof from Lessor to Lessee.

Section 9.04. Lessor's Remedy. In the event of default by Lessee hereunder which shall remain uncured after the required notices have been given pursuant to this Lease, and for such time as provided herein or, in the case of a default that cannot be cured within thirty (30) days, if Lessee fails to commence to correct such default within said thirty (30) day period and thereafter diligently prosecute the correction of same to completion within a reasonable time and for such time as provided herein, Lessor may at once thereafter or any times subsequent during the existence of such breach or default (a) enter into and upon the Premises or any part thereof and repossess the same, expelling therefrom Lessee and all personal property of Lessee (which property may be removed and stored at the cost of and for the account of Lessee), using such force as may be necessary, (b) immediately terminate this Lease by notice, and (c) be entitled to such other, additional remedies as may then be available to Lessor at law or in equity.

Section 9.05. Lessor's Right to Cure Default. If Lessee shall be in default hereunder, Lessor shall have the right with at least thirty (30) days prior notice to Lessee to make any payment or perform any act required of Lessee under any provision of this Lease and, in exercising such right, to incur necessary or incidental costs and expenses, including reasonable attorneys' fees. All payments made and all costs and expenses incurred by Lessor in connection with any exercise of such right shall be reimbursed by Lessee immediately upon demand. Notwithstanding the foregoing, nothing herein shall imply any obligation on the part of Lessor to make any payment or perform any act required of Lessee.

Section 9.06. Default by Lessor. If Lessor defaults in the observance or performance of any term, covenant or condition required to be performed by it under this Lease, Lessee may, after not less than thirty (30) days notice to Lessor, except in the case of any emergency, remedy such default by any necessary action, and in connection with such remedy may pay all expenses; all sums expended or obligations incurred by Lessee in connection therewith shall be paid by Lessor to Lessee upon demand or, at Lessee's option, be deducted by Lessee from the next maturing installment(s) of rent.

Section 9.07. Unavoidable Default or Delay. Any prevention, delay, nonperformance or stoppage due to any of the following causes shall excuse nonperformance for a period equal to

any such prevention, delay, nonperformance or stoppage, except the obligations imposed by this Lease for the payment of rent. The causes referred to above are strikes, lockouts, labor disputes, failure of power, acts of God, acts of public enemies of the State or of the United States, riots, insurrections, civil commotions, inability to obtain labor or materials or reasonable substitutes for either, governmental restrictions or regulations or control, casualties not contemplated by insurance provisions of this Lease, or other causes beyond the reasonable control of the party obligated to perform.

Section 9.08. Waiver. No waiver of any default shall constitute a waiver of any other breach or default, whether of the same or any other covenant or condition. No waiver, benefit, privilege or service voluntarily given or performed by either party shall give the other any contractual right by custom, estoppel or otherwise. The subsequent acceptance of rent pursuant to this Lease shall not constitute a waiver of any preceding default by Lessee other than default in the payment of the particular rental payment so accepted, regardless of Lessor's knowledge of the preceding breach at the time of accepting the rent, nor shall acceptance of rent or other payment after termination constitute a reinstatement, extension or renewal of the Lease or revocation of any notice or other act by Lessor.

ARTICLE X. ASSIGNMENT; SUBLETTING

Section 10.01. No Right of Assignment or Subletting. Lessee shall have no right to assign, sublease, or otherwise transfer Lessee's interest in this Lease and the estate created by this Lease or any part thereof without the prior written consent of Lessor, which may be withheld in its sole and absolute discretion.

Section 10.02. Management of Premises. Lessee has the right to contract with a third party to manage the Premises and maintain the "Star" and other improvements, including but not limited to the pave driveway and the gate.

ARTICLE XI. EXPIRATION OF THE TERM

Section 11.01. Peaceful Surrender and Removal. Upon the expiration of the Term, or any other termination, of this Lease, Lessee shall: (i) peacefully surrender and vacate the Premises; and (ii) at Lessee's sole cost and expense, remove from the premises any and all property associated with the "Star on the Mountain" display, Lessee's also repairing any damage to Lessor's real property occasioned by, or associated, with such removal.

**ARTICLE XII.
MISCELLANEOUS**

Section 12.01. Time of the Essence. Time is and shall be deemed of the essence in respect of the performance of each provision of this Lease.

Section 12.02. Binding Effect; Successors or Assigns. All of the terms, provisions, covenants and conditions of this Lease shall inure to the benefit of and be binding upon the undersigned parties, their legal - -representatives, heirs, executors and administrators, and (where permitted by this Lease) their successors and assigns.

Section 12.03. Notices. All notices provided to be given under this Lease shall be given by certified or registered mail, return receipt requested, postage fully prepaid, addressed to Lessor and Lessee at the addresses set forth below:

LESSOR: 88 INVESTMENTS, INC.
 807 South El Paso
 El Paso, Texas 79901
 Attn: George E. Salom, Jr.

LESSEE: City of El Paso
 Attn: City Manager
 2 Civic Center Plaza, 10th Floor
 El Paso, Texas 79901

With copy to: City of El Paso
 Attn: Capital Asset Management
 2 Civic Center Plaza, 7th Floor
 El Paso, Texas 79901

The address of either party hereinabove set forth may be changed from time to time by giving written notice to that effect to the other party in accordance with this Section 12.03.

Any notice deposited as above provided shall be conclusively deemed to have been received by the party to whom the same is addressed within forty-eight (48) hours if deposited in the same state as the addressee and within ninety-six (96) hours if deposited in a state other than the addressee.

Section 12.04. Law Governing. The laws of the State of Texas shall govern the validity, performance and enforcement of this Lease.

Section 12.05. Gender and Number. Words of any gender used in this Lease shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, and vice versa, unless the context otherwise requires.

Section 12.06. Entire Agreement. This Lease contains all of the agreements and conditions made between the parties hereto and may not be modified orally or in any manner other than by agreement in writing signed by the parties hereto or their respective successors in interest.

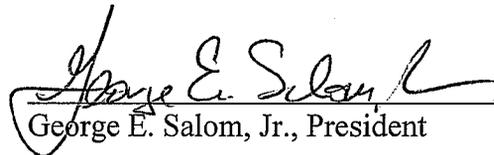
Section 12.07. Captions. The captions of the various articles and the sections of this Lease are for convenience and ease of reference only and do not define, limit, augment or describe the scope, context or intent of this Lease or any part or parts of this Lease.

Section 12.08. Severability. The invalidity or illegality of any provision shall not affect the remainder of this Lease.

Section 12.09. Joint Preparation. This Lease shall be deemed to have been jointly prepared by all parties hereto, and no ambiguity herein shall be construed for or against any party based upon the identity of the author of this Lease or any portion hereof.

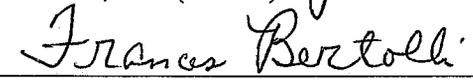
EXECUTED effective the day and year first above written.

LESSOR: 88 INVESTMENTS, INC.

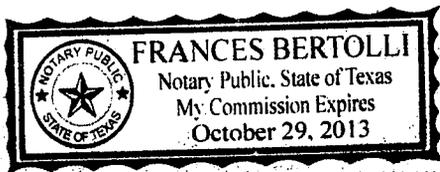

George E. Salom, Jr., President

THE STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on this 12th day of April, 2010, by GEORGE E. SALOM, JR., as President of 88 Investments, Inc. (Lessor)


Notary Public, State of Texas

My commission expires:

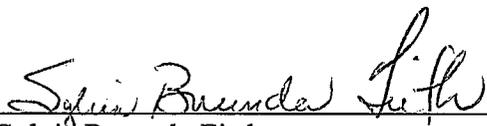


[SIGNATURES CONTINUE ON THE FOLLOWING PAGE]

LESSEE: THE CITY OF EL PASO

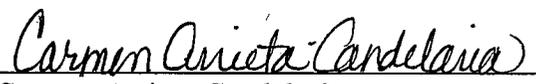
Joyce A. Wilson
City Manager

APPROVED AS TO FORM:



Sylvia Borunda Firth
Senior Assistant City Attorney

APPROVED AS TO CONTENT:



Carmen Arrieta-Candelaria
Chief Financial Officer

ACKNOWLEDGEMENT

THE STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on this ____ day of _____, 20__, by
Joyce Wilson, as City Manager of the CITY OF EL PASO. (Lessee)

Notary Public, State of Texas

My commission expires:

EXHIBIT "A"

Property Description

Property Descriptions All of Tracts 29A, 29B and 30, H.F. Fisher Survey No. 293, El Paso, El Paso County, Texas

METES AND BOUNDS DESCRIPTION

The parcel of land herein described is all of Tracts 29A, 29B and 30, H.F. Fisher Survey No. 293, El Paso, El Paso County, Texas, and is more particularly described by metes and bounds as follows:

Commencing at Kern Place Monument No. 232 lying on the common boundary line between Kern Place Addition and H.F. Fisher Survey No. 293; Thence, North $00^{\circ} 00' 00''$ East, along said boundary line, a distance of 393.31 feet to a found 1/4-inch iron pipe in concrete lying on the northwest corner of H.F. Fisher Survey No. 293, said point also lying on the common boundary line between H.F. Fisher Survey No. 293 and George Heyles Survey No. 299, said point also being the THREE POINT OF BEGINNING of this description;

THENCE, North $03^{\circ} 47' 19''$ East, along said boundary line, a distance of 3406.68 feet to a found rock mound lying on the northeast corner of H.F. Fisher Survey No. 293, said point also lying on the common boundary line between H.F. Fisher Survey No. 293 and Highland Park Addition;

THENCE, South $00^{\circ} 12' 31''$ East, along said boundary line, a distance of 897.23 feet to a chiseled "X" lying on the northerly right-of-way line of Seaside Drive;

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

140.29 feet along the arc of a curve to the left, having a radius of 740.99 feet, a central angle of $33^{\circ} 21' 13''$ and a chord which bears South $24^{\circ} 35' 45''$ West, a distance of 138.32 feet;

South $07^{\circ} 55' 08''$ West, a distance of 43.73 feet;

61.44 feet along the arc of a curve to the right, having a radius of 64.39 feet, a central angle of $56^{\circ} 30' 00''$ and a chord which bears South $35^{\circ} 10' 08''$ West, a distance of 39.13 feet;

South $42^{\circ} 23' 08''$ West, a distance of 186.67 feet;

96.31 feet along the arc of a curve to the right, having a radius of 1382.39 feet, a central angle of $04^{\circ} 00' 08''$ and a chord which bears South $64^{\circ} 25' 08''$ West, a distance of 96.49 feet;

South $66^{\circ} 23' 08''$ West, a distance of 25.00 feet;

196.41 feet along the arc of a curve to the left, having a radius of 165.49 feet, a central angle of $60^{\circ} 00' 08''$ and a chord which bears South $32^{\circ} 25' 08''$ West, a distance of 185.08 feet;

South $01^{\circ} 34' 52''$ East, a distance of 40.00 feet;

45.57 feet along the arc of a curve to the right, having a radius of 91.24 feet, a central angle of $28^{\circ} 00' 00''$ and a chord which bears South $12^{\circ} 25' 08''$ West, a distance of 43.11 feet;

South $26^{\circ} 23' 08''$ West, a distance of 179.67 feet;

46.73 feet along the arc of a curve to the right, having a radius of 140.98 feet, a central angle of $19^{\circ} 00' 00''$ and a chord which bears South $35^{\circ} 25' 08''$ West, a distance of 46.54 feet;

South $43^{\circ} 15' 08''$ West, a distance of 92.00 feet;

42.31 feet along the arc of a curve to the right, having a radius of 93.26 feet, a central angle of $26^{\circ} 00' 00''$ and a chord which bears South $54^{\circ} 25' 08''$ West, a distance of 41.95 feet;

South 71° 25' 08" West, a distance of 22.00 feet;

135.98 feet along the arc of a curve to the left, having a radius of 240.97 feet, a central angle of 32° 20' 00" and a chord which bears South 55° 15' 08" West, a distance of 134.19 feet;

South 39° 05' 08" West, a distance of 80.07 feet;

25.45 feet along the arc of a curve to the right, having a radius of 236.47 feet, a central angle of 06° 18' 00" and a chord which bears South 42° 10' 08" West, a distance of 25.44 feet to a point lying on the common boundary line between Tracts 2 and 29A, N.F. Fisher Survey No. 233;

THENCE, along said boundary line the following courses:

North 44° 44' 52" West, a distance of 25.00 feet;

62.74 feet along the arc of a curve to the right, having a radius of 211.47 feet, a central angle of 17° 00' 00" and a chord which bears South 53° 43' 08" West, a distance of 62.51 feet;

South 62° 15' 08" West, a distance of 181.15 feet;

39.77 feet along the arc of a curve to the right, having a radius of 41.17 feet, a central angle of 55° 24' 46" and a chord which bears South 89° 51' 31" West, a distance of 38.24 feet;

South 27° 44' 52" East, a distance of 33.45 feet to a point lying on the northerly right-of-way line of Seaside Drive;

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

45.53 feet along the arc of a curve to the right, having a radius of 66.12 feet, a central angle of 39° 26' 39" and a chord which bears North 67° 13' 35" West, a distance of 44.63 feet;

North 47° 30' 06" West, a distance of 69.00 feet;

61.91 feet along the arc of a curve to the right; having a radius of 236.48 feet, a central angle of 15° 00' 00" and a chord which bears North 40° 00' 06" West, a distance of 61.73 feet;

North 32° 30' 06" West, a distance of 264.00 feet;

296.06 feet along the arc of a curve to the left, having a radius of 263.85 feet, a central angle of 48° 00' 00" and a chord which bears North 57° 00' 05" West, a distance of 285.15 feet;

242.97 feet along the arc of a curve to the right, having a radius of 127.95 feet, a central angle of 100° 54' 20" and a chord which bears North 31° 02' 52" West, a distance of 212.77 feet;

North 19° 24' 22" East, a distance of 36.63 feet;

236.15 feet along the arc of a curve to the left, having a radius of 145.49 feet, a central angle of 23° 00' 00" and a chord which bears North 22° 05' 38" West, a distance of 211.07 feet;

North 73° 15' 38" West, a distance of 50.70 feet;

55.17 feet along the arc of a curve to the right, having a radius of 45.43 feet, a central angle of 89° 35' 00" and a chord which bears North 38° 41' 08" West, a distance of 51.84 feet;

North 04° 00' 38" West, a distance of 17.40 feet;

129.37 feet along the arc of a curve to the left, having a radius of 224.86 feet, a central angle of 26° 00' 00" and a chord which bears North 21° 00' 23" West, a distance of 137.33 feet;

North 18° 00' 38" West, a distance of 103.30 feet;

331.40 feet along the arc of a curve to the left, having a radius of 145.50 feet, a central angle of 130° 30' 00" and a chord which bears South 76° 44' 22" West, a distance of 264.77 feet to a point lying on the common boundary line between Tract 29A, H.F. Fisher Survey No. 293 and La Campana Antigua Estates;

THENCE, along said boundary line, the following courses:

North 12° 11' 57" East, a distance of 0.50 feet to a found 1/2-inch iron;

North 26° 56' 23" West, a distance of 45.88 feet to a found 1/2-inch iron;

171.92 feet along the arc of a curve to the left, having a radius of 270.00 feet, a central angle of 36° 28' 00" and a chord which bears North 43° 10' 32" West, a distance of 173.03 feet to a found 1/2-inch iron;

North 61° 25' 23" West, a distance of 267.26 feet to a set 5/8-inch iron with sub-land cap;

195.70 feet along the arc of a curve to the right, having a radius of 276.40 feet, a central angle of 40° 24' 00" and a chord which bears North 41° 38' 23" West, a distance of 191.64 feet to a found 1/2-inch iron;

North 20° 51' 23" West, a distance of 325.25 feet to a found 1/2-inch iron with cap;

North 85° 43' 23" West, a distance of 139.50 feet to a found 1/2-inch iron with cap;

South 58° 01' 37" West, a distance of 199.00 feet to a found 1/2-inch iron with cap lying on the northerly right-of-way line of Robinson Avenue;

THENCE, 148.78 feet along said right-of-way line and along the arc of a curve to the left, having a radius of 158.22 feet, a central angle of 53° 52' 41" and a chord which bears North 60° 11' 39" West, a distance of 143.36 feet to a set bridge nail;

THENCE, North 69° 33' 33" West, a distance of 79.21 feet to a chiseled nail lying on the common boundary line between Tract 29A, H.F. Fisher Survey No. 293 and Los Compadres;

THENCE, North 00° 00' 00" East, along said boundary line, a distance of 174.34 feet to the TRUE POINT OF BEGINNING of this description.

Said parcel of land contains 88.545 acres (3,857,028 sq. ft.) of land more or less.