

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

DEPARTMENT: ENGINEERING
AGENDA DATE: May 6, 2008
CONTACT PERSON: R. Alan Shubert, P.E., City Engineer
DISTRICT AFFECTED: 3

SUBJECT:

A RESOLUTION AUTHORIZING THAT THE CITY MANAGER BE AUTHORIZED TO SIGN AND ACCEPT A DRAINAGE EASEMENT FROM NICK J. DELGADO AND GUADALUPE H. DELGADO FOR A 1,175 S.F. PARCEL OF LAND TO BE USED AS RIGHT-OF-WAY FOR A STORM SEWER PIPE AS PART OF A PROPOSED STREET & DRAINAGE IMPROVEMENT PROJECT.

BACKGROUND / DISCUSSION:

This specific Unpaved Rights-of-Way project, located at 390 Colfax Avenue, requires the securing of a permanent drainage easement upon privately-owned land. The easement will be used to install a reinforced concrete pipe to convey storm water from the newly paved street into a nearby channel. The Project includes the paving of the following unpaved City streets: Geiger, Colfax and Coates.

PRIOR COUNCIL ACTION:

No prior actions related to this effort have been previously presented for Council's consideration.

AMOUNT AND SOURCE OF FUNDING:

Costs will be funded through 2004 Unpaved Rights of Way Certificates of Obligation. No budgetary adjustments are necessary.

<u>Project</u>	<u>Fund</u>	<u>Department</u>	<u>Account</u>
PBE04ST136	29152	14200403	508000

BOARD / COMMISSION ACTION:

(N/A)

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

LEGAL: (if required) _____ **FINANCE:** (if required) _____

DEPARTMENT HEAD: _____

APPROVED FOR AGENDA:

CITY MANAGER: _____ **DATE:** _____

RESOLUTION

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

That the City Manager be authorized to sign and accept a Drainage Easement from Nick J. Delgado and Guadalupe H. Delgado for a 0.027 acre parcel of land, more or less, out of a portion of Lot 4, Block 21, Brentwood Heights (Book 5, Page 56, Plat Records, El Paso County, Texas) City of El Paso, El Paso County Texas.

ADOPTED this _____ day of _____, 2008.

CITY OF EL PASO:

ATTEST:

John F. Cook, Mayor

Richarda Duffy-Momsen
City Clerk

APPROVED AS TO FORM:



Theresa Cullen-Garney
Deputy City Attorney

APPROVED AS TO CONTENT:



Alan Shubert, P.E.
City Engineer

Document #: 37400

Document Name: ENG/Reso/Drainage Easement/Brentwood Heights

STATE OF TEXAS §
 §
COUNTY OF EL PASO §

DRAINAGE EASEMENT

That Nick J. Delgado and Guadalupe H. Delgado, hereinafter called Grantor, of the County of El Paso, State of Texas, in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable consideration paid to the Grantor, by the City of El Paso, the receipt and sufficiency of which is hereby acknowledged by Grantor; and, for which no lien is retained, either expressed or implied, does hereby grant, sell and convey a permanent easement on, under, across and through that certain parcel of land owned by Grantor, to the City of El Paso (Grantee).

A 0.027 acre parcel of land, more or less out of a portion of Lot 4, Block 21, Brentwood Heights (Book 5, Page 56, Plat Records, El Paso County, Texas) City of El Paso, El Paso County Texas, being more particularly described by metes and bounds in Exhibit "A" which is attached hereto and made a part hereof for all purposes,

The rights granted include the right to construct, build, install, repair, reconstruct, maintain and operate a storm sewer drainage line or lines with appurtenances and improvements thereto and the rights of access, ingress and egress. The easement rights shall be vested in the Grantee effective the date immediately below.

Grantee may use such portion of the property along and adjacent to said easement as may be reasonably necessary, in connection with the construction, reconstruction, installation, maintenance, repair, removal or replacement of the facilities provided that Grantee shall be responsible to restore the property to the condition it was in prior to Grantee's use.

This grant is to have and to hold, the above-described rights and easement together with all and singular, the rights and appurtenances thereto in any way belonging to Grantee, its successors and assigns forever; and Grantor is hereby bound, together with its officers, agents and employees to warrant and defend the above-described easement to Grantee, its successors and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof. Such rights and easement shall be covenants running with the land and shall be binding upon Grantor, its heirs, executors, administrators, successors and assigns.

Grantor reserves the right to full use and enjoyment of the property encumbered by the Easement, except as otherwise provided herein, and such use shall not hinder, conflict or interfere with the exercise of Grantee's rights hereunder, and Grantor acknowledges that no building, reservoir, structure or other improvement, other than paving, shall be constructed or maintained on said Easement without Grantee's written consent.

Other than the rights and easement granted herein, Grantor reserves the right to the full use and enjoyment of the property encumbered by this easement, except as otherwise provided herein, and such use shall not hinder, conflict, or interfere with the exercise of Grantee's rights hereunder.

Grantor, its heirs, executors, administrators, successors, and assigns shall, at all times, have access from the remaining property to the land covered by this easement and Grantee shall in no way prohibit ingress to or egress from any adjacent land owned by the Grantor because of construction or any other reason.

The undersigned represents and warrants to Grantee that the undersigned is the owner of record of the property above described and has the full power and authority to grant this Easement.

When the context requires singular nouns and pronouns, include the plural.

Witness the following signatures this 22nd day of APRIL, 2008.

GRANTOR:

Nick J. Delgado
Nick J. Delgado

Guadalupe H. Delgado
Guadalupe H. Delgado

ACKNOWLEDGEMENT

STATE OF TEXAS §
 §
COUNTY OF EL PASO §

This instrument was acknowledged before me on the 22nd day of APRIL, 2008, by Nick J. Delgado.

05-24-2009
My commission expires

I. Hernandez
Notary Public, State of Texas



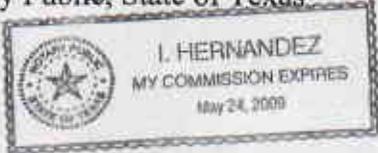
(Acknowledgements continue on next page)

ACKNOWLEDGEMENT

STATE OF TEXAS §
 §
COUNTY OF EL PASO §

This instrument was acknowledged before me on the 22nd day of APRIL, 2008, by Guadalupe H. Delgado.

05-24-2009
My commission expires

[Signature]
Notary Public, State of Texas


ACCEPTED THIS _____ DAY OF _____, 2008.

Grantee
CITY OF EL PASO:

Joyce A. Wilson
City Manager

ACKNOWLEDGEMENT

STATE OF TEXAS §
 §
COUNTY OF EL PASO §

This instrument was acknowledged before me on the _____ day of _____, 2008, by Joyce A. Wilson, City Manager of the City of El Paso, Texas.

Notary Public, State of Texas

My commission expires

(Signatures continue on next page)

APPROVED AS TO FORM:

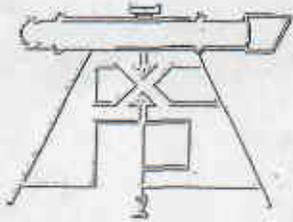


Theresa Cullen-Garney
Deputy City Attorney

APPROVED AS TO CONTENT:



R. Alan Shubert, P.E.
City Engineer



Frank X. Spencer & Associates, Inc.

Consulting Civil Engineers & Surveyors
1130 Montana * El Paso, Texas 79902

Frank X. Spencer, P.E., R.P.L.S.

(915) 533-4600
FAX (915) 533-4673
e-mail: elpaso@fxsa.com

METES AND BOUNDS DESCRIPTION

A 0.027 ACRES (1,173 Sq.Ft.) OF LAND OUT OF A PORTION OF LOT 4, BLOCK 21, BRENTWOOD HEIGHTS (BOOK 5, PAGE 56, PLAT RECORDS, EL PASO COUNTY TEXAS) CITY OF EL PASO, EL PASO COUNTY, TEXAS, BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING at a recovered $\frac{1}{2}$ " rebar marked Tx2027 at the southeast corner of Tract 6, Elijah Bennett Survey No. 11, from which a recovered $\frac{1}{2}$ " rebar marked Tx2027 at the southwest corner of Lot 3, Medina Subdivision (Book 6, Page 17, Plat Records, El Paso County, Texas) bears South $89^{\circ}35'47''$ West, a distance of 391.26 feet (390.76 record); **Thence**, along the east boundary line of said Tract 6, North $00^{\circ}35'13''$ West, a distance of 211.91 feet to a point on the northerly boundary line of Tract 6, and the southerly boundary line of Tract 8, Elijah Bennett Survey No. 11, **Thence**, along said boundary line South $89^{\circ}24'47''$ West, a distance of 105.04 feet to a point on the easterly boundary line of Block 21, Brentwood Heights (Book 5, Page 56, Plat Records, El Paso County, Texas, **Thence**, along said boundary line, North $00^{\circ}43'34''$ West, a distance of 87.76 feet to a set $\frac{5}{8}$ " rebar with an aluminum cap marked "FXS RPLS 2198; being the **POINT OF BEGINNING** of this description;

THENCE, North $89^{\circ}54'33''$ West, a distance of 117.37 feet, to a $\frac{5}{8}$ " rebar with an aluminum cap marked "FXS RPLS 2198 set on the easterly right-of-way of Colfax Avenue (50-Foot right-of-way);

THENCE, along said right-of-way, North $00^{\circ}05'47''$ West, a distance of 10.00 feet, to a $\frac{5}{8}$ " rebar with an aluminum cap marked "FXS RPLS 2198 set on the common boundary corner of Lots 4 & 5, Block 21, Brentwood Heights;

THENCE, along the common boundary line of said Lots 4 & 5, South $89^{\circ}54'33''$ East, a distance of 117.23 feet, to a $\frac{5}{8}$ " rebar with an aluminum cap marked "FXS RPLS 2198" set on the easterly boundary line of Block 21, Brentwood Heights;

THENCE, South $00^{\circ}43'34''$ East, a distance of 10.00 feet, to a point; the **POINT OF BEGINNING**, containing 0.027 Acres (1,173 S.F.) of land, more or less.

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

Exhibit "A"
1 of 3

Charles H. Gutierrez



Frank X. Spencer & Associates, Inc.
Charles Gutierrez, RPLS
Texas License No. 5572

Date: *11/02/07*

Exhibit "A"
2 of 3



LEGEND

- RECOVERED MONUMENT (AS NOTED)
- ▨ EXISTING CONCRETE
- PP POWER POLE

COLFAX AVENUE
(50-FOOT RIGHT-OF-WAY)

N 89°35'47" E 391.26' (390.76 RECORD)

RECOVERED 1/2" REBAR MARKED (7-0227) AT THE SOUTHWEST CORNER OF LOT 3, MERMA SUBDIVISION DEED & PAGE 17, PLAT RECORDS, EL PASO COUNTY, TEXAS.

TRACT 5
ELIJAH BENNETT
SURVEY No. 11

TRACT 6
ELIJAH BENNETT
SURVEY No. 11

EXISTING BUILDING

APPROXIMATE LOCATION OF A 10' EASEMENT TO EL PASO ELECTRIC COMPANY AND MOUNTAIN STATES TELEPHONE AND TELEGRAPH COMPANY DATED DECEMBER 3, 1972, IN BOOK 492, PAGE 028L DEED RECORDS, EL PASO COUNTY, TEXAS.

5' DRAINAGE EASEMENT IN BOOK 1508, PAGE 028L, DEED RECORDS, EL PASO COUNTY, TEXAS.

DRAINAGE EASEMENT IN BOOK 1597, PAGE 0283, AND BOOK 1602, PAGE 0281 DEED RECORDS, EL PASO COUNTY, TEXAS.

N00°43'34"W 87.76'

TRACT B
ELIJAH BENNETT
SURVEY No. 11

CONCRETE RIPRAP

LINE	LENGTH	BEARING
L1	10.00	N00°05'47"E
L2	10.00	S00°43'04"E

NOTES:

1. TITLE COMMITMENT NO. OF No. 1111002315 DATED OCTOBER 31, 2007 SUPPLIED BY LAWYERS TITLE INSURANCE CORPORATION.
2. THE BASES OF BEARINGS IS THE RECOVERED REBARS ON THE SOUTH LINE OF TRACTS 5 AND 6 ELIJAH BENNETT SURVEY No. 11. (AS SHOWN) BASED ON GPS OBSERVATIONS.
3. THE PLAT OF PARK BRENTWOOD HEIGHTS IS RECORDED IN BOOK 3, PAGE 58, PLAT RECORDS, EL PASO COUNTY, TEXAS.
4. SET 5/8" REBAR WITH ALUMINUM CAP MARKED "FXS RPLS 2188" AT ALL PROPERTY CORNERS UNLESS OTHERWISE INDICATED.
5. ACCORDING TO FEDERAL EMERGENCY MANAGEMENT AGENCY FLOOD INSURANCE RATE MAP PANELS 480214-408, DATED OCTOBER 15, 1982, THIS PROPERTY LIES IN FLOOD HAZARD ZONE "0".
6. PROPERTY IS SUBJECT TO A CLAIM DATED APRIL 12, 1993, IN BOOK 2553, PAGE 1958, DEED RECORDS, EL PASO COUNTY, TEXAS.
7. PROPERTY IS SUBJECT TO A QUIT CLAIM DEED DATED DECEMBER 17, 1981, IN BOOK 1231, PAGE 0848, DEED RECORDS, EL PASO COUNTY, TEXAS, WHERE MOUNTAIN STATES AND TELEPHONE AND TELEGRAPH COMPANY INTEREST TO SOUTHWESTERN BELL TELEPHONE COMPANY.

RECOVERED 1/2" REBAR MARKED (7-0227) AT THE SOUTHWEST CORNER OF TRACT 6, ELIJAH BENNETT SURVEY 11.

N 00°35'13" W
211.91'

PARCEL AREA
0.027 ACRES
1173 Sq Ft



Charles H. Gutierrez
CHARLES HENRY GUTIERREZ
Registered Professional Land Surveyor #5572

4/08/07
DATE

A PORTION OF LOT 4, BLOCK 21,
BRENTWOOD HEIGHTS, CITY OF EL PASO,
EL PASO COUNTY, TEXAS.

SCALE: 1" = 30'



17-18-07 REVISED ADDED EASEMENT WITHIN TRACT B

Exhibit "A"
3 of 3

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