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

DEPARTMENT: El Paso Water Utilities

AGENDA DATE: INTRODUCTION: June 24, 2008;
PUBLIC HEARING: July 8, 2008

CONTACT PERSON/PHONE: Robert D. Andron, General Counsel
El Paso Water Utilities, (915) 594-5607

DISTRICT(S) AFFECTED: District #6 – Mission Valley area

SUBJECT:
The introduction of an ordinance relating to the sale of land in the Mission Valley area of El Paso located between Pan American Drive and Southside Drive. Attached is an individual ordinance and special warranty deed. There is a total of approximately 9.635 acres of land making up this parcel.

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?

Attached is the El Paso Water Utilities Public Service Board Resolution passed and approved May 14th, 2008, authorizing the sale to the sole and highest bidder of this property; and requesting the City Council authorize the City Manager to sign a Special Warranty Deed to convey the parcel.

Bids were received May 5, 2008. There was one bid received and it was in excess of the market value established by an independent appraisal. The legal description and amount of the sole and highest bidder for the parcel is as follows:

PSB Bid No.24-08

Being a portion of Lot 1, Block 1, Riverside International Industrial Center, City of El Paso, El Paso County, Texas, being approximately 9.635 acres of land, to GH Dairy-El Paso, the sole and highest bidder, in the amount of $776,445.00.

PRIOR COUNCIL ACTION:
Has the Council previously considered this item or a closely related one?
In 2007, the City Council approved the sale of a parcel of land of 40 acres in Northeast El Paso

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?

Sale of land to the sole and highest bidder. The City of El Paso will receive 5% of the net proceeds from the sale of the land pursuant to City of El Paso El Paso Water Utilities Water and Sewer Revenue Bond Covenants.

BOARD / COMMISSION ACTION:

Approved by the El Paso Water Utilities Public Service Board by Resolution May 14, 2008.

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

LEGAL: (if required)_____

FINANCE: (if required)_____

DEPARTMENT HEAD _____

(Example: if RCA is initiated by Purchasing, client department should sign also)

Information copy to appropriate Deputy City Manager

APPROVED FOR AGENDA:

CITY MANAGER: _____**DATE:** _____

Attachments

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ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF EL PASO, TEXAS, AUTHORIZING THE CITY MANAGER TO EXECUTE A SPECIAL WARRANTY DEED AND ANY OTHER NECESSARY DOCUMENTS AS REQUIRED FOR THE SALE AND CONVEYANCE AS RECOMMENDED BY THE EL PASO WATER UTILITIES FOR THE FOLLOWING DESCRIBED REAL PROPERTY TO GH DAIRY-EL PASO, THE SOLE AND HIGHEST BIDDER, SUCH LAND TOTALING APPROXIMATELY 9.635 ACRES OF LAND OUT OF A PORTION OF LOT 1, BLOCK 1, RIVERSIDE INTERNATIONAL INDUSTRIAL CENTER, CITY OF EL PASO, EL PASO COUNTY, TEXAS LOCATED IN THE MISSION VALLEY AREA OF EL PASO BETWEEN PAN AMERICAN DRIVE AND SOUTHSIDE DRIVE.

WHEREAS, by Resolution dated May 14, 2008, the El Paso Water Utilities Public Service Board (PSB), which has jurisdiction over a certain parcel of land described as: being 9.635 acres of land, more or less, and consisting of a portion of Lot 1, Block 1, Riverside International Industrial Center, City of El Paso, El Paso County, Texas; found the land to be inexpedient to the water system; approved the sale of the land to the sole and highest bidder, following a public sealed competitive bidding process, requested the El Paso City Council pass an ordinance authorizing the sale and conveyance of the real property to the sole and highest bidder; and

WHEREAS, the PSB received a bid response to its public offering of the land for sale from GH Dairy-El Paso, on May 5, 2008, in the total amount of $776,445.00, such bid being in excess of the market value established by an independent appraisal; and being the sole bid submitted for the real property in response to the Invitation for Bids.

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

That the City Manager is hereby authorized to execute a Special Warranty Deed and any other necessary documents as required for the sale and conveyance of the following described real property to GH Dairy-El Paso, the sole and highest bidder, as recommended by the El Paso Water Utilities: The real property being more particularly described as totaling approximately 9.635 acres of land being out of a portion of Lot 1, Block 1, Riverside International Industrial Center, City of El Paso, El Paso County, Texas. Said property is located in the Mission Valley area of El Paso and lies entirely within the City Limits.

PASSED AND APPROVED this _____ day of _____, 2008.

THE CITY OF EL PASO

ATTEST:

_____
John F. Cook, Mayor

_____
Richarda Duffy Momsen, City Clerk

APPROVED AS TO FORM:

Robert D. Andron

Robert D. Andron, General Counsel, PSB

APPROVED AS TO FORM:

Theresa Cullen-Garney

Theresa Cullen-Garney, Deputy City Attorney

CITY CLERK DEPT.
08 JUN 16 AM 11:15

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED OF RECORD IN THE PUBLIC RECORDS: SOCIAL SECURITY NUMBER AND DRIVER'S LICENSE NUMBER.

SPECIAL WARRANTY DEED

Date: _____, 2008

Grantor: The City of El Paso, Texas, a Texas municipal corporation
On Behalf of El Paso Water Utilities Public Service Board

Grantor's Mailing Address (including county): Two Civic Center Plaza
El Paso, Texas
El Paso County, Texas 79901-1196

Grantee: GH Dairy-El Paso

Grantee's Mailing Address (including county): 9747 Pan American Drive
El Paso, Texas 79927
El Paso County, Texas 79927

Consideration: TEN AND NO/100 DOLLARS and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged and confessed.

Being approximately 9.635 acres in a portion of Lot 1, Block 1, Riverside International Industrial Center, City of El Paso, El Paso County, Texas and more particularly described in Exhibit "A", attached hereto and incorporated herein by this reference for all purposes.

Restrictions and Reservations from and Exceptions to Conveyance and Warranty:

1. This conveyance is subject to all easements, rights-of-way, and prescriptive rights whether of record or not, all presently recorded instruments, other than liens and conveyances, that affect the property.

2. Grantee, its successors or assigns shall not, for a period of at least 75 years, discard, place or store any radioactive material or other material which would contaminate or otherwise damage the groundwater supply or sources of the City of El Paso.

3. Development of the property shall be governed by the following restrictions as to turf:

   a. Turf Areas, exclusive of non-irrigated or non-maintained landscape areas, shall not exceed the following percentages of the landscape area provided:

      i. Commercial, office, and industrial: 33⅓%

      ii. Apartments, duplexes and other multi-family dwellings, single-family detached or attached dwellings, and all other residential dwellings, including mobile and modular homes: 50%

iii. All other developments excluding parks, golf courses, and cemeteries: 15%

b. Turf and/or sprinkler spray heads shall not be installed in the following locations:

i. Along street curbs;
ii. In areas whose width is less than 8 feet; and
iii. In rights-of-way whose slopes are a ratio of 1:3 or greater from the horizontal.

4. Grantor hereby for itself, its successors and assigns forever, reserves all water in and under, and that may be produced from or attributable to the property. If the water estate is subject to existing production or an existing license, this reservation includes the production, the license and all benefits from it.

Grantor, for the consideration and subject to the restrictions, reservations from and exceptions to conveyance and warranty, grants, sells, and conveys to Grantee the property, together with all and singular the rights and appurtenances thereto in any wise belonging, to have and hold it to Grantee, Grantee's, heirs, executors, administrators, successors or assigns forever. Grantor binds Grantor and Grantor's successors to warrant and forever defend all and singular the property to Grantee and Grantee's heirs, executors, administrators, successors and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof, except as to the reservations from and exceptions to conveyance and warranty, when the claim is by, through, or under Grantor but not otherwise.

THE CITY OF EL PASO

APPROVED AS TO FORM:

_____
Joyce Wilson, City Manager

Robert D. Andron

Robert D. Andron, General Counsel, PSB

This Deed is hereby accepted by Grantee under the terms, covenants, obligations and conditions stated herein:

Grantee: GH Dairy-El Paso

By:_____

ATTEST:

_____
(print name) (title)

_____

(ACKNOWLEDGMENTS ON FOLLOWING PAGE)

ACKNOWLEDGMENTS

STATE OF TEXAS }
}
COUNTY OF EL PASO }

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

_____
Notary Public, State of Texas

STATE OF TEXAS }
}
COUNTY OF EL PASO }

This instrument was acknowledged before me on the _____ day of _____, 2008, by_____, the _____ of GH Dairy-El Paso.

_____
Notary Public, State of Texas

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EL PASO WATER UTILITIES
PUBLIC SERVICE BOARD

TO: Joyce Wilson, City Manager
City of El Paso, Texas

FROM: Robert D. Andron, General Counsel
El Paso Water Utilities Public Service Board

DATE: June 5, 2008

SUBJECT: Request to place Item on City Council Agenda – Introduction: June 24, 2008
Public Hearing: July 8, 2008

An Ordinance of the City of El Paso, Texas, authorizing the City Manager to execute a Special Warranty Deed and any other necessary documents as required for the sale and conveyance as recommended by the El Paso Water Utilities for the following described real property to G H Dairy-El Paso, the sole and highest bidder, such land totaling approximately 9.635 acres of land out of a portion of Lot 1, Block 1, Riverside International Industrial Center, City of El Paso, El Paso County, Texas, located in the Mission Valley area of El Paso between Pan American Drive and Southside Drive. **(District #6)** [El Paso Water Utilities, Robert D. Andron, (915) 594-5607]

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INTRODUCTION – City Council Agenda – June 24, 2008
PUBLIC HEARING – City Council Agenda -- July 8, 2008

Background

The El Paso Water Utilities Public Service Board provided forty-three packets to potential bidders for a parcel of land of approximately 9.635 acres located in the Mission Valley area of El Paso. On May 5, 2008, the PSB received one bid response (Bid No. 24-08) to its public offering of the land for sale from GH Dairy-El Paso, for the total amount of $776,445.00. This bid was in excess of the market value established by an independent appraisal.

By a Resolution dated May 14, 2008, the El Paso Water Utilities Public Service Board, (PSB), which has jurisdiction over that certain parcel of land described as: being approximately 9.635 acres of land, more or less and consisting of a portion of Lot 1, Block 1, Riverside International Industrial Center, City of El Paso, El Paso County, Texas; found the land to be inexpedient to the water system, approved the sale of the land to the sole and highest bidder, and requested the El Paso City Council pass an ordinance conveying the real property to the sole and highest bidder.
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PSB BID NO. 41-07

Being a portion of Lot 1, Block 1, Riverside International Industrial Center, City of El Paso, El Paso County, Texas, being approximately 9.635 acres of land to GH Dairy – El Paso, in the total amount of $776,445.00.

ACTION REQUESTED

That the City Manager be authorized to sign a Special Warranty Deed and any other necessary documents as required for the sale and conveyance as recommended by the El Paso Water Utilities, to GH – El Paso, the sole and highest bidder, land described being approximately 9.635 acres of land, more or less, being a portion of Lot 1, Block 1, Riverside International Industrial Center, City of El Paso, El Paso County, Texas. Said property is located in the Mission Valley area of El Paso between Pan American Drive and Southside Drive.

REQUEST TO PLACE ITEM ON THE CITY COUNCIL AGENDA

Attached is a copy of the Ordinance and a copy of the Special Warranty Deed for the parcel in this request. Upon passage of the Ordinance, it is requested that the City Clerk provide to this office a copy of the fully executed and numbered Ordinance for the parcel.

As to the deed, after City Council approval, execution by the City Manager and notarizing such signature, the City Clerk's Office will make a copy for her file, the City Clerk will route the original Special Warranty Deed to the El Paso Water Utilities Legal Section so that arrangements can be made for a closing on the parcel. After closing and once the Special Warranty Deed has been filed of record, this office will send a conformed copy to the City Clerk for the City's permanent records.

Please advise this office of the placement of this item on the City Council Agenda and my Secretary will contact the City Clerk and make arrangements to have document packets hand-delivered to the City Clerk's Office and email backup documents as noted to those listed below. If there are any questions, please call me at 594-5607 or email bandron@epwu.org.

I will plan to attend the Public Hearing for the Ordinance which is scheduled at this time for the City Council agenda July 8, 2008. Thank you for your kind attention to this matter.

Attachments
Cc: The Honorable Mayor John Cook (email)
City Council Representatives (email)
Pat Adauto, Deputy City Manager for Building & Planning Services (email)
Charlie McNabb, City Attorney (email)
Theresa Cullen-Garney, Deputy City Attorney (email)
Richarda Duffy-Momsen, City Clerk (hard copies & email)
Nicholas J. Costanzo, Vice President of Strategic, Financial & Management Services
Marcela Navarrete, Chief Finance Officer, PSB
Jim Shelton, Land Management, PSB

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RESOLUTION

A RESOLUTION AUTHORIZING THE SALE TO GH DAIRY-EL PASO, THE HIGHEST BIDDER FOR 9.635 ACRES OF LAND, MORE OR LESS, PORTION OF LOT 1, BLOCK 1, RIVERSIDE INTERNATIONAL INDUSTRIAL CENTER, CITY OF EL PASO, EL PASO COUNTY, TEXAS, SAID REAL PROPERTY BEING UNDER THE JURISDICTION OF THE PUBLIC SERVICE BOARD; REQUESTING THE CITY COUNCIL AUTHORIZE THE CITY MANAGER TO EXECUTE A SPECIAL WARRANTY DEED; AND PROVIDING AN EFFECTIVE DATE.

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WHEREAS, the El Paso Water Utilities Public Service Board (PSB), Trustee, has jurisdiction over certain parcels of land in the Mission Valley El Paso area of El Paso; and

WHEREAS, the Public Service Board approved the sale of 9.635 acres of land in the Mission Valley El Paso area of El Paso located between Pan American Drive and Southside Drive; and,

WHEREAS, the PSB finds that this parcel of land is inexpedient to the water system and it is in the public interest that said land should be sold to the highest bidder, and

WHEREAS, the PSB provided approximately forty-three bid packets to be opened on May 5, 2008, and the GH DAIRY-EL PASO bid was the sole bid received.

NOW, THEREFORE, BE IT RESOLVED BY THE PUBLIC SERVICE BOARD OF THE CITY OF EL PASO EL PASO WATER UTILITIES:

Section 1. That the findings and recitations set out in the preamble to this Resolution are true and correct and are hereby adopted by the Public Service Board and made a part of this Resolution for all purposes.

Section 2. That the Public Service Board hereby finds the land the subject of this Resolution to be inexpedient to the needs of the water utility system and hereby approves the conveyance of land described as follows:

Being a portion of Lot 1, Block 1, Riverside International Industrial Center, City of El Paso, El Paso County, Texas, being approximately 9.635 acres of land to GH Dairy-El Paso, for a total sales price of $776,445.00.

Section 3. That the Public Service Board hereby requests the City Council authorize the City Manager to sign a Special Warranty Deed and any other necessary documents to convey the property to GH DAIRY-EL PASO.

Section 4. That a copy of this Resolution shall be transmitted to the City Attorney's Office.

PASSED AND APPROVED at a regular meeting of the Public Service Board of the City of El Paso, Texas, this 14th day of May, 2008, at which meeting a quorum was present, held in accordance with the provisions of V.T.C.A. Government Code, Sections 551.001 et. seq.

PUBLIC SERVICE BOARD

Chair Ruben Guerra

ATTEST:

Secretary-Treasurer Richard O. Martinez

APPROVED AS TO FORM:

Robert D. Andron, General Counsel

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05/14/08

Cutts Land Surveying, Inc.

Professional Land Surveyors

PROPERTY DESCRIPTION
419,700 Square Feet or 9.635 Acres

Being the description of a portion of Lot 1, Block 1, Riverside International Industrial Center (recorded in volume 74, page 3, plat records), City of El Paso, El Paso County, Texas and being more particularly described by metes and bounds as follows:

COMMENCING FOR REFERENCE at the city monument in the centerline of Pan American Drive at the North edge of said Riverside International Industrial Center;

THENCE, South 05°24'14" East, a distance of 716.18 feet to a point in the centerline of said Pan American Drive and the city monument at a PI in said Pan American Drive bears, South 06°36'14" East (bearing basis), a distance of 1328.51 feet;

THENCE, leaving said centerline, South 83°23'46" West, a distance of 45.00 feet to a found 5/8 inch rebar in the West right-of-way line of said Pan American Drive at the Southeast corner of a tract to VF Jeanswear, Inc. (book 3608, page 1330) and **POINT OF BEGINNING** for the herein described tract;

THENCE, along said West right-of-way line, South 06°36'14" East, a distance of 616.62 feet to a set ½ inch rebar marked (Tx2027) and the Southeast corner of said Lot 1 bears South 06°36'14" East, 50.42 feet;

THENCE, leaving said right-of-way line, North 89°11'41" West, a distance of 717.32 feet to a set ½ inch rebar marked (Tx2027);

THENCE, North 00°02'24" East, a distance of 620.49 feet to a found 5/8 inch rebar at the Southwest corner of said VF Jeanswear tract;

THENCE, along the South line of said VF Jeanswear tract, South 88°24'00" East, a distance of 646.15 feet to the **POINT OF BEGINNING** and containing **419,700 square feet** or **9.635 Acres** of land.

This description was prepared from a survey made on the ground on December 7, 2007 with a plat of same date.

PREPARED BY:
Cutts Land Surveying, Inc.
El Paso, Texas
April 7, 2008
Job No. 071203

STATE OF TEXAS
REGISTERED
JERRY E. CUTTS
2027
PROFESSIONAL
LAND SURVEYOR

1100 Montana, Suite 206
El Paso, Texas 79902

Email: cuttsland@aol.com

Tel. (915) 534-9391
Fax (915) 534-9394

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NOTES:
1) This tract lies within Special Flood Hazard Zone "C" as designated by the FEMA Flood Insurance Rate Map, City of El Paso, Panel No. 0050B, dated October 15, 1982.
2) M-1 (Light Manufacturing) zoning setback lines front yard = 15 feet, rear yard = 10 feet
3) A metes & bounds description dated December 19, 2007 was prepared from this survey.

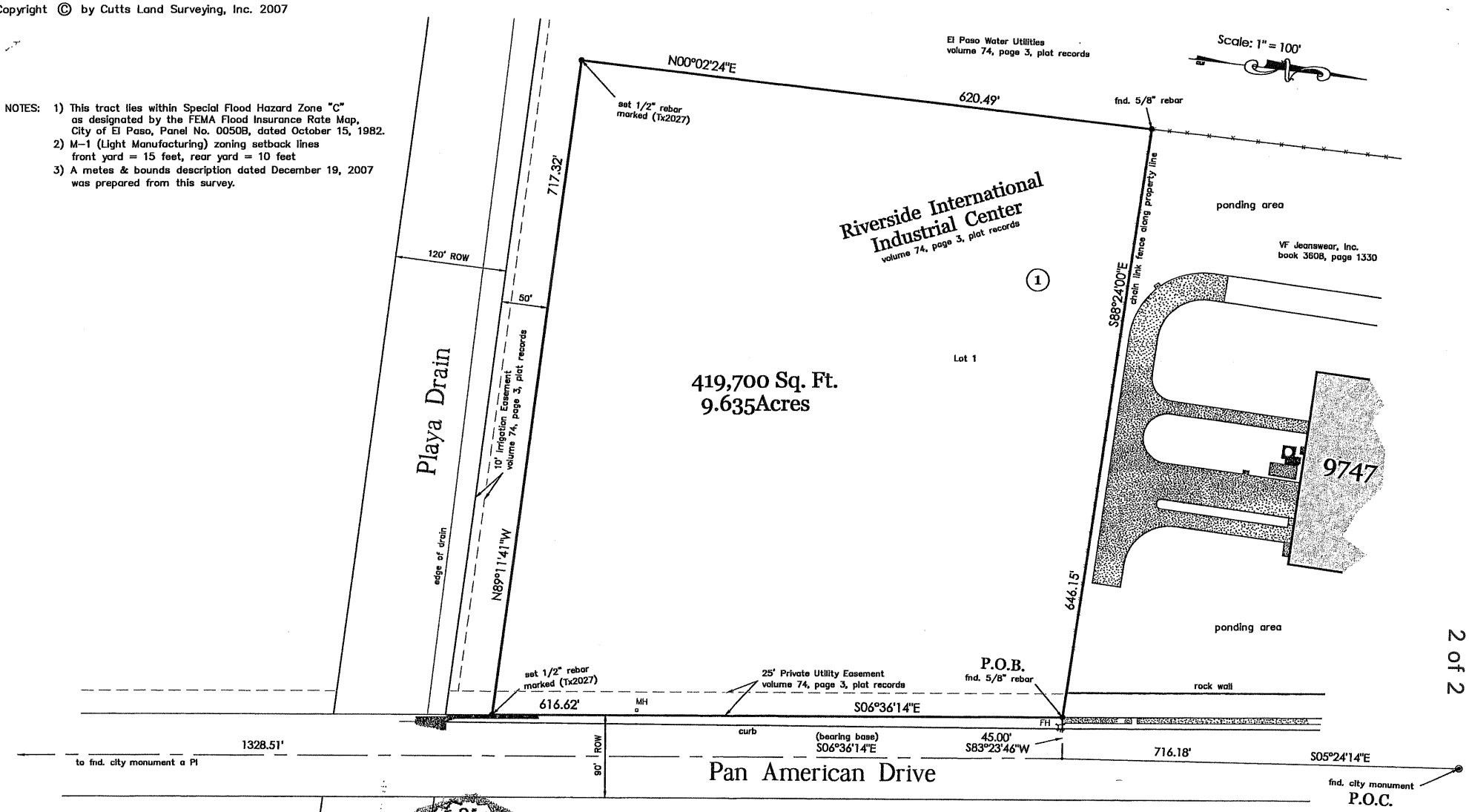

Exhibit "A"
2 of 2

I hereby certify that this survey was made on the ground under my supervision and that this plat represents the facts as found at the time of this survey.

12-07-07
Date

Jerry E. Cutts, RPLS

STATE OF TEXAS
REGISTERED
JERRY E. CUTTS
2027
PROFESSIONAL
LAND SURVEYOR

PLAT OF SURVEY
PORTION OF LOT 1, BLOCK 1,
RIVERSIDE INTERNATIONAL INDUSTRIAL CENTER,
EL PASO, EL PASO COUNTY, TEXAS

Revised: 4-07-08
Date surveyed: 12-07-07
Job No. 071203

Cutts Land Surveying, Inc.
Professional Land Surveyors
1100 Montana Avenue, Suite 206
El Paso, Texas 79902
Ph. (915) 534-9391
Fx. (915) 534-9394

LOCATION MAP ONLY