CITY OF EL PASO, TEXAS

AGENDA ITEM DEPARTMENT HEAD'S SUMMARY FORM

DEPARTMENT: **El Paso Water Utilities Public Service Board**

AGENDA DATE: **Introduction: July 26, 2011**
Public Hearing: August 9, 2011

The El Paso Water Utilities is requesting this matter be place on the City Council Agenda (INTRODUCTION) for July 26, 2011 and (PUBLIC HEARING) for August 9, 2011. A copy of this agenda item with its supporting documentation has been furnished to the City Attorney for his review prior to City Council action.

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

DISTRICT(S) AFFECTED: Extraterritorial Jurisdiction
West El Paso County Land Sale

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.

An Ordinance authorizing the City Manager to sign a Special Warranty Deed conveying to the County of El Paso, certain parcels of land under the jurisdiction and control of the El Paso Water Utilities Public Service Board Trustees and more particularly described as **Tracts 6C and 6-B-1**, Block 18, Upper Valley Surveys, El Paso, El Paso County, Texas and containing 3.2564 acres of land, more or less. Said land to be known as Bosque Loop Right of Way which will provide public access for the property owners currently landlocked for ingress and egress to their small subdivision and is located adjacent to Bosque Road and Campos Road in Northwest El Paso County, Texas.

(Extraterritorial Jurisdiction)
(Contact Person: Robert D. Andron, General Counsel, El Paso Water Utilities: 594-5607)
Introduction: July 26, 2011
Public Hearing Date: August 9, 2011

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?

Eight El Paso County landowners on July 27, 2010 through their representative, Mr. David Etzold, requested the El Paso Water Utilities Public Service Board, convey certain parcels of land to the County of El Paso on their behalf since they are landlocked for public access at their properties near Bosque Road and Campos Road in Northwest El Paso County, Texas. Also in July, 2010, Congressman Silvestre Reyes wrote to the President/CEO of the El Paso Water Utilities asking for assistance for the property owners in obtaining lawful ingress and egress to their land.

The El Paso Water Utilities acquired adjacent properties by way of condemnation in December, 1950. The acquisition cut off public access to the lots owned by the eight property owners. Since that time, they have used a portion of the adjacent land for access to their lots. The property owners are all abutting landowners in this subdivision which does not have legal access. Congressman Reyes and his staff have worked diligently with the property owners and the County to have a tract of land conveyed to the County solely for roadway use.

A Right of Way Conveyance Agreement among the property owners, the County of El Paso and the El Paso Water Utilities Public Service Board has been entered into. The Agreement provides that the landowners will pay the El Paso Water Utilities for several small parcels of land totaling 3.2564 acres to be used only for roadway purposes. The City is requested by the El Paso Water Utilities to convey the land by Special Warranty Deed to the County of El Paso. The County will pave the roadway and incorporate it into their road operation and maintenance schedule.

At a regular meeting held August 25, 2010, the El Paso Water Utilities Public Service Board upon a Motion by Mayor Cook, Seconded by Maria Teran, found the land identified by the property owners to be inexpedient to the needs of the system and authorized the President/CEO to take all necessary actions to sell the land to the adjacent property owners conditioned on the land being used solely for roadway purposes and including, but not limited to, requesting the City Council authorize the City Manager to sign a Special Warranty Deed to convey the land to the County of El Paso on behalf of the property owners and contingent upon the County of El Paso accepting the land for a roadway right of way and paving the roadway.

Please accept the enclosed Ordinance for introduction at the regular City Council meeting July 26, 2011 and public hearing by the City Council at the regular City Council meeting to be held August 9, 2011.

PRIOR COUNCIL ACTION:
Has the Council previously considered this item or a closely related one?

Yes. With Introduction February 6, 2007 and public hearing February 20, 2007, the City Council passed an ordinance authorizing the City Manager to sign a Special Warranty Deed conveying to various property owners a small tract of land near Bosque and Campos Roads for use as a roadway right of way for access to their property.

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?

The property owners have agreed with the El Paso Water Utilities upon a cash price for the 3.2564 acres of land in the sum of $53,890.00. This amount has been deposited in an escrow account with a title company and will be conveyed to the El Paso Water Utilities once the property has been deeded to the County of El Paso with a roadway use condition. The City of El Paso will receive five percent (5%) of the net sale proceeds.

No budget transfer is required.

BOARD / COMMISSION ACTION:
Enter appropriate comments or N/A

At a regular meeting held August 25, 2010, the El Paso Water Utilities Public Service Board upon a Motion by Mayor Cook, Seconded by Maria Teran, found the land identified by the property owners to be inexpedient to the needs of the system and authorized the President/CEO to take all necessary actions to sell the land to the adjacent property owners conditioned on the land being used solely for roadway purposes and including, but not limited to, requesting the City Council authorize the City Manager to sign a Special Warranty Deed to convey the land to the County of El Paso on behalf of the property owners and contingent upon the County of El Paso accepting the land for a roadway right of way and paving the roadway.

********************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:**_____

EL PASO WATER UTILITIES
PUBLIC SERVICE BOARD

TO: Joyce A. Wilson, City Manager
El Paso, Texas

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

DATE: ~~July 20, 2011~~ July 21, 2011

SUBJECT: Request to place Item on City Council Agenda-Ordinance
Introduction: July 26, 2011
Public Hearing: August 9, 2011

An Ordinance authorizing the City Manager to sign a Special Warranty Deed conveying to the County of El Paso, certain parcels of land under the jurisdiction and control of the El Paso Water Utilities Public Service Board Trustees and more particularly described as **Tracts 6C and 6-B-1,** Block 18, Upper Valley Surveys, El Paso, El Paso County, Texas containing 3.2564 acres of land, more or less. Said land to be known as Bosque Loop Right of Way will provide public access for the property owners currently landlocked for ingress and egress to their small subdivision and is located adjacent to Bosque Road and Campos Road in Northwest El Paso County, Texas. (Extraterritorial Jurisdiction) (Contact Person: Robert D. Andron, General Counsel, El Paso Water Utilities: 594-5607)

INTRODUCTION – City Council Agenda – July 26, 2011
PUBLIC HEARING – City Council Agenda – August 9, 2011

Background

Eight El Paso County landowners on July 27, 2010 through their representative, Mr. David Etzold, requested the El Paso Water Utilities Public Service Board, convey certain parcels of land to the County of El Paso on their behalf since they are landlocked for public access at their properties near Bosque Road and Campos Road in Northwest El Paso County, Texas. Also in July, 2010, Congressman Silvestre Reyes wrote to the President/CEO of the El Paso Water Utilities asking for assistance for the property owners in obtaining lawful ingress and egress to their land.

The El Paso Water Utilities acquired properties adjacent to the landowners by way of condemnation in December, 1950. The acquisition cut off public access to the lots owned by the eight property owners. Since that time, they have used a portion of the adjacent land for access to their lots. The property owners are all abutting landowners in this subdivision which does not have legal access. Congressman Reyes and his staff have worked diligently with the property owners and the County to have the tract of land conveyed to the County solely for roadway use.

A Right of Way Conveyance Agreement among the property owners, the County of El Paso and the El Paso Water Utilities Public Service Board has been entered into. The Agreement provides that the landowners will pay the El Paso Water Utilities for several small parcels of land totaling 3.2564 acres to be used only for roadway purposes. The City is requested by the El Paso Water Utilities to convey the land by Special Warranty Deed to the County of El Paso. The County will pave the roadway and incorporate it into their road operation and maintenance schedule.

At a regular meeting held August 25, 2010, the El Paso Water Utilities Public Service Board, upon Motion by Mayor Cook, Seconded by Maria Teran, found the land identified by the property owners to be inexpedient to the needs of the system and authorized the President/CEO to take all necessary actions to sell the land to the adjacent property owners conditioned on the land being used solely for roadway purposes and including, but not limited to, requesting the City Council authorize the City Manager to sign a Special Warranty Deed to convey the land to the County of El Paso on behalf of the property owners and contingent upon the County of El Paso accepting the land for a roadway right of way and paving the roadway.

The property owners have agreed with the EL Paso Water Utilities upon a cash price for the 3.2564 acres of land in the sum of $53,890.00. This amount has been deposited in an escrow account with a title company and will be transferred to the El Paso Water Utilities once the property has been deeded to the County of El Paso with the roadway use condition. The City of El Paso will receive five percent (5%) of the net sale proceeds.

Please accept the enclosed Ordinance for introduction at its regular meeting July 26, 2011 and public hearing by the City Council at its regular meeting to be held on August 9, 2011.

ACTION REQUESTED

That the City pass an ordinance authorizing the City Manager to sign a Special Warranty Deed conveying 3.2564 acres of land, more or less, consisting of **Tracts 6C and 6-B-1**, Block 18, Upper Valley Surveys, El Paso, El Paso County, Texas to the County of El Paso for use for roadway purposes for ingress and egress for the property owners.

Said property is located adjacent to Rio Bosque Road and Campos Road in Northwest El Paso, County, Texas.

REQUEST TO PLACE ITEM ON THE CITY COUNCIL AGENDA

Attached is a copy of the Ordinance. Upon adoption and approval of the Ordinance, it is requested that the City Clerk provide to this office an original of the fully executed Ordinance.

Also attached is a copy of the Right of Way Conveyance Agreement among the County, the landowners and the El Paso Water Utilities Public Service Board.

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. El Paso Water Utilities Staff will attend the City Council meeting on Tuesday, July 26, 2011 & August 9, 2011. Thank you for your kind attention to this matter.

Attachments

Cc: The Honorable Mayor John Cook (email)
City Council Representatives (email)
Charlie McNabb, City Attorney (email)
Richarda Duffy-Momsen, City Clerk (hard copies & email)
Nicholas J. Costanzo, Vice President of Strategic, Financial & Management Services (email)
Marcela Navarrete, Chief Finance Officer, PSB (email)

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ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING THE CITY MANAGER OF THE CITY OF EL PASO, TEXAS TO SIGN A SPECIAL WARRANTY DEED TO CONVEY TO THE COUNTY OF EL PASO, APROXIMATELY 3.2564 ACRES OF LAND, KNOWN AS A PORTION OF TRACTS 6-C AND 6-B-1, BLOCK 18, UPPER VALLEY SURVEYS, EL PASO COUNTY, TEXAS AS SHOWN ON MAP OF BLOCK 18 BY JW CARTER AND DATED APRIL 1930, AND ALSO BEING A PORTION OF THAT PARCEL RECORDED IN CONDEMNATION SUIT, DOCKET 15273 FILED DECEMBER 29, 1950, EL PASO COUNTY DISTRICT CLERK'S RECORDS. FURTHER, AUTHORIZING THE CITY MANAGER TO SIGN ANY AND ALL DOCUMENTS NECESSARY TO COMPLETE THE SALE OF THE LAND.

WHEREAS, the El Paso Water Utilities Public Service Board (EPWU) is a Board of Trustees delegated the complete management and control of the City's water, wastewater, reclaimed and storm water system and as such has the jurisdiction and control over certain lands in El Paso and El Paso County, Texas; and,

WHEREAS, certain adjacent landowners have agreed to pay to the El Paso Water Utilities Public Service Board for an approximately 3.2564 acre parcel of land in Northwest El Paso County adjacent to Rio Bosque Road and Campos Road so the land can be transferred to El Paso County to be used solely as a roadway right of way and roadway; and,

WHEREAS, Texas Local Government Code Section 272.001 provides that the notice and bidding requirements of Texas Local Government Code Section 272.001(a) shall not be required in the sale of real property belonging to a municipality provided that the abutting property owners own the underlying fee simple in the land over which the municipality owns an easement; and,

WHEREAS, El Paso County has agreed to accept the land for roadway only use and to pave the same; and,

WHEREAS, EPWU determined in a regular meeting held August 25, 2010 that the land the subject of this Ordinance to be inexpedient to the system and authorized the President/CEO to request the El Paso City Council to adopt an ordinance authorizing the City Manger to sign a Special Warranty Deed conveying the land to the County of El Paso for use as a roadway; and,

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

That the City Manager is hereby authorized to execute: 1) a Special Warranty Deed in form and substance approved by the City Attorney or his designee; and, 2) any other necessary documents as required for the sale and conveyance of the following described real property to the County of El Paso as requested by the El Paso Water Utilities Public Service Board Trustees; to-wit:

Being approximately 3.2564 acres of land, known as a portion of Tracts 6-C and 6-B-1, Block 18, Upper Valley Surveys, El Paso County, Texas as shown on map of Block 18 by JW Carter and dated April 1930, and also being a portion of that parcel recorded in condemnation suit, docket 15273 filed December 29, 1950, El Paso County District Clerk's records and being more particularly described in Exhibit "A" attached hereto and made a part hereof by this reference for all purposes.

PASSED AND APPROVED this _____day of _____, 2011, at a regular meeting of the El Paso City Council.

THE CITY OF EL PASO, TEXAS

_____
John F. Cook, Mayor

APPROVED AS TO FORM:

_____
Assistant City Attorney

APPROVED AS TO FORM AND CONTENT:

_____
Robert D. Andron, General Counsel, EPWU

PROPERTY DESCRIPTION

BOSQUE LOOP ROW

Description of a parcel of land being a portion of Tracts 6-C and 6-B-1, Block 18, Upper Valley Surveys, El Paso County, Texas, as shown on Map of Block 18 by JW Carter and dated April 1930, and also being a portion of that parcel recorded in Condemnation Suit, Docket 15273 filed December 29, 1950, El Paso County District Clerks Records, and described as follows;

Beginning at a rebar found on the westerly boundary line of said Condemnation Suit Parcel and also marking the northeast corner of Tract 6-F of said Block 18 (described in book 2923, page 1121), said rebar lying North 00°00'00" West (Bearing Basis) a distance of 1019.61' from an old rebar found marking the southeast corner of Tract 6-A (described in book 329, page 132, and book 3627, page 730) and the northeast corner of Tract 6-H-2 (described in book 425, page 84 and book 2346, page 797), and being the "Point Of Beginning";

Thence, North 38°50'49" East a distance of 136.33' to a 5/8"rebar with cap set on the common tract line of Tracts 6 and 5 of said Block 18;

Thence, with said common tract line, North 85°51'00" East a distance of 50.00' to a 5/8"rebar with cap set;

Thence, leaving said tract line, South 04°09'00" East a distance of 19.69' to a 5/8"rebar with cap set at an angle point;

Thence, South 38°50'49" West a distance of 138.39' to 5/8"rebar with cap set at an angle point;

Thence, South 00°00'00" East a distance of 1114.06' 5/8"rebar with cap set at an angle point;

Thence, roughly parallel with and north of an historically used dirt access road, North 86°16'29" East a distance of 1208.78' to 5/8"rebar with cap set on the west ROW line of Bosque Road (40' wide);

Thence, with said ROW line, South 00°09'00" East a distance of 50.10' to a PK nail set;

Thence, roughly parallel with and south of an historically used dirt access road, South 86°16'29" West a distance of 1228.95' to a 5/8"rebar with cap set at an angle point from whence an existing fence post lying at the northwesterly corner of a PSB water well site enclosure lies 5.3' southerly;

Thence, South 00°00'00" East a distance of 511.43' to a 5/8"rebar with cap set at an angle point;

Thence, South 90°00'00" West a distance of 30.00' to a 5/8"rebar with cap set on said west boundary line of said Condemnation Suit Parcel and also lying on the east tract line of Tract 6-G (described in book 1234, page 881) of said Block 18, and also lying North 00°08'21" East a distance of 313.81' from a 2" pipe found marking the northeast corner of Tract 8 of said Block 18;

Thence, with said west boundary line of said Condemnation Suit Parcel, North 00°00'00" West, passing the northeast corner of said Tract 6-G at a distance of 30.00', passing a rebar found at the southeast corner of Tract 6-H-1 (described in book 425, page 84 and book 2346, page 797) at a distance of 379.13', passing an old rebar found at the northeast corner of Tract 6-H-1-A (described in book 3209, page 2228) at a distance of 654.24', and continuing for a total distance of 1694.53' to the "Point Of Beginning" and containing 141,847 sq. ft. or 3.2564 acres.

Based on a field survey performed under my supervision and dated April 8, 2011

John A Eby, Texas R.P.L.S. 5372 NM PLS 17779

Paso Del Norte Surveying Inc.
13998 Bradley Road
El Paso, TX. 79938
915-241-1841

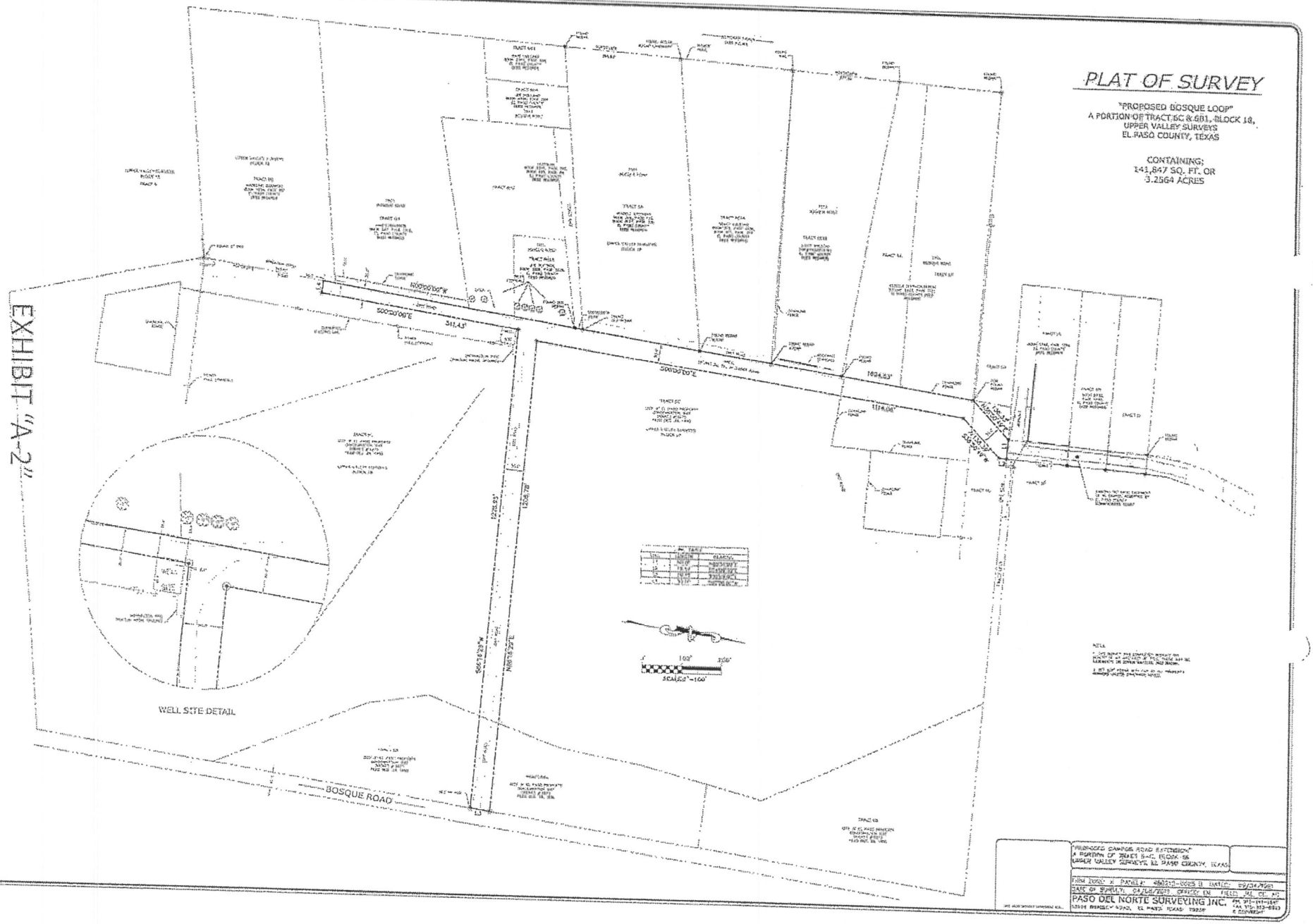
EXHIBIT "A-1"

PLAT OF SURVEY

"PROPOSED BOSQUE LOOP"
A PORTION OF TRACT 6C & 6B1, BLOCK 18,
UPPER VALLEY SURVEYS
EL PASO COUNTY, TEXAS

CONTAINING:
141,847 SQ. FT. OR
3.2564 ACRES

EXHIBIT "A-2"



"PROPOSED CAMPOS ROAD EXTENSION"
A PORTION OF TRACT 6-C, BLOCK 18
UPPER VALLEY SURVEYS, EL PASO COUNTY, TEXAS

PASO DEL NORTE SURVEYING INC.

ORIGINAL, cityatty's has orig

RIGHT OF WAY CONVEYANCE AGREEMENT

This Right of Way Conveyance Agreement ("Agreement") is made this _____ day of June, 2011, by and among the El Paso Water Utilities Public Service Board ("Board"), the County of El Paso ("County") and the following homeowners: Scott Kolstad, Wendell G. Stephens, and Regina Stephens, ("Homeowners", whether one or more).

WHEREAS, the Homeowners have made a request that the El Paso Water Utilities Public Service Board transfer and convey to the County of El Paso a certain parcel of land under the jurisdiction of the Board of Trustees and adjacent to their properties to be used solely as a roadway for access to their properties; and,

WHEREAS, the Homeowners have met with officials from the County and have received assurances that when the property is transferred to the County, the County will pave the property for a road use; and,

WHEREAS, the Board, at their regular meeting of August 25, 2010 by action in open session declared the land inexpedient to the system and authorized the President/CEO to take all necessary actions to sell the land contingent upon the final road being paved; and,

WHEREAS, the Board by this action authorized the President/CEO to request the El Paso City Council to authorize the City Manager to sign a Special Warranty Deed conveying the property at issue to the County of El Paso on behalf of the Homeowners for use as a road;

NOW THEREFORE, for and inconsideration of the promises and covenants made herein, the Parties agree as follows:

1. Board Agreement to Request Council Action on the Sale of the Land:

The El Paso Water Utilities Public Service Board will request the City of El Paso City Council to authorize the City Manager to sign a Special Warranty Deed conveying that certain parcel of land consisting of approximately 3.2564 acres of land more particularly described as being Tracts 6C, 6D, and 8 out of Block 18, Upper Valley Surveys, El Paso County, Texas.

It is a condition of the Special Warranty Deed that the property's use be restricted solely to a roadway and that once the final alignment of the roadway is agreed upon with the County, that the County will pave the roadway in accordance with its county roadway standards.

The Board and the Homeowners have agreed upon a cash price of $16,552.00 per acre for the tracts of land. The estimate is that the right of way will consist of 3.2564 acres or 141,847 square feet for a total purchase price of $53,890.00.

The actual legal description of the right of way parcel and the final computation of the purchase price will be calculated based on the final survey and final approval of the legal description by the El Paso Water Utilities Land Administration. The closing of the conveyance will take place at Sierra Title Company.

2. County's Agreement to Accept and maintain.

The County of El Paso, Texas has agreed to accept the Special Warranty Deed and to timely, grade, pave and maintain the roadway in accordance with its usual county road maintenance schedule. The name of the road will be Bosque Loop Road on the records of El Paso County.

3. Final Survey

The Homeowners will arrange and pay for Paso Del Norte Surveying, Inc. to prepare a survey and legal description of the right of way parcel. Promptly upon the survey's availability, the Homeowners will provide copies of the survey to the Board and the County for comment and approval. Attached hereto is a metes and bounds description

4. Closing Requirements:

In order to consummate the conveyance of the right of way parcel from the City and to arrange for the County's acceptance of the right of way parcel for improvement and maintenance, the Homeowners and the Board further agree to provide the following at closing:

(a) Purchase Price and Related Closing Fees. The Homeowners will collectively arrange for the correct amount of cash to be delivered into escrow at Sierra Title Company. Such sum will be sufficient to pay for the land and all closing costs including a title policy, attorney's fees, taxes, survey costs, and professional and legal fees and any other related expenses incurred by Homeowners payable to Etzold & Co., Firth, Johnston & Martinez and Robert A. Skipworth.

(b) Special Warranty Deed. The Board will deliver a Special Warranty Deed after it has been signed by the City Manager and substantially in the form attached as Exhibit C A, to convey the right of way parcel to the County on behalf of the Homeowners and citizens of El Paso County. The parties contemplate that the final legal description of the right of way parcel will be incorporated as an exhibit to the dedication deed once the description is determined by the surveyor and agreed upon by the parties.

5. Closing of Escrow; Distributions.

Promptly after finalization of the survey and calculation of the actual amount needed to pay closing funds, the parties will arrange for a closing to take place at Sierra Title Company at which (i) the final purchase price will be paid to the Board, and (ii) the Special Warranty Deed will be delivered to and accepted by the County and filed of record in the real property records of El Paso County, Texas. In addition to these specific actions, Sierra Title Company is hereby authorized and directed to coordinate other customary matter relating to the closing, including without limitation, the payment of premiums, fees and other expenses, the preparation of settlement statements, as well as any matters reasonably required by the parties to conclude this transaction.

RL

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6. Continuing Cooperation.

The parties agree to cooperate fully with each other, now and at all times in the future, to effect a prompt, complete and lawful conveyance and transfer of the right of way parcel to the County of El Paso (for dedication to the public use as a roadway), and to complete and execute such further documentation as any party may reasonably consider necessary or appropriate to carry out the purposes of this Agreement. The Board and the County of El Paso, as governmental entities, will endeavor to obtain all necessary or advisable approvals of the City and County government respectively.

7. Miscellaneous Provisions.

7.1. This Agreement shall bind and inure to the benefit of the parties hereto and their respective heirs, representatives, successors and assigns.

7.2. This Agreement shall be governed by and construed under the laws of the State of Texas and venue for any and all matters shall be in El Paso County, Texas.

7.3. All notices, requests, demands or other communications hereunder shall be in writing and shall be deemed to have been duly given if personally delivered (with a delivery receipt being obtained) or sent by fax or electronic mail, or by certified mail, return receipt and postage prepaid, or by nationally recognized overnight courier service, prepaid, to the parties at the following addresses (or any addresses[es] subsequently designated:

El Paso Water Utilities
Public Service Board

El Paso Water Utilities
Attn: Edmund G. Archuleta, P.E.
P.O. Box 511
El Paso, TX 799061-0001

Mr. James Shelton
Land Administration
El Paso Water Utilities
P.O. Box 511
El Paso, TX 799061-0001
Fax: 915-594-5699

El Paso County

Attorney Erich A. Morales
El Paso County Attorney's Office
500 E. San Antonio, Rm. 503
El Paso, TX 79901
FAX: 915-543-2133

El Paso County

Mr. Robert Rivera
County Road & Bridge Dept.
County of El Paso
500 E. San Antonio
El Paso, TX 79901

Homeowners:

Attorney Robert A. Skipworth
310 N. Mesa, Ste. 600
El Paso, TX 79901-1342
FAX: 915-544-5348

Mr. David F. Etzold
Etzold & Company
1 Texas Tower
109 N. Oregon, Ste. 200
El Paso, TX 79901
FAX: 915-351-9255

7.4. This Agreement may be amended, modified, superseded or canceled, and any of the terms, covenants, representations, warranties or conditions hereof may be waived, only by a written instrument executed by the parties to be bound.

7.5. The following Exhibits are to be attached and may be refined, amended or supplemented from time to time by agreement of the parties:

Exhibit A: Depiction of El Paso Water Utilities Property and Homeowner Tracts.

Exhibit B: Depiction and legal description of right of way parcel.

Exhibit C: Form of Special Warranty Deed

7.5. This Agreement may be executed in any number of counterparts or by fax or electronically transmitted signatures, each of which, when taken together will constitute one integrated document.

7.6. This Agreement is the entire agreement of the parties and supersedes any prior verbal or written offers or agreements of the parties.

7.7. The parties signatory hereto warrant they have the full and complete authority as duly authorized by their principals. The Homeowners warrant that they are the owners of the parcels of land which they represent and have unencumbered authority to act for same.

TO WITNESS WHICH, OUR SIGNATURES HEREINBELOW:

EL PASO WATER UTILITIES
PUBLIC SERVICE BOARD

Edmund G. Archuleta, P.E.
President/CEO

The County of El Paso

Attest:

County Judge

County Clerk

Homeowners:

Scott Kolstad

Wendell G. Stephens

Regina Stephens

PROPERTY DESCRIPTION

BOSQUE LOOP ROW

Description of a parcel of land being a portion of Tracts 6-C and 6-B-1, Block 18, Upper Valley Surveys, El Paso County, Texas, as shown on Map of Block 18 by JW Carter and dated April 1930, and also being a portion of that parcel recorded in Condemnation Suit, Docket 15273 filed December 29, 1950, El Paso County District Clerks Records, and described as follows;

Beginning at a rebar found on the westerly boundary line of said Condemnation Suit Parcel and also marking the northeast corner of Tract 6-F of said Block 18 (described in book 2923, page 1121), said rebar lying North 00°00'00" West (Bearing Basis) a distance of 1019.61' from an old rebar found marking the southeast corner of Tract 6-A (described in book 329, page 132, and book 3627, page 730) and the northeast corner of Tract 6-H-2 (described in book 425, page 84 and book 2346, page 797), and being the "Point Of Beginning";

Thence, North 38°50'49" East a distance of 136.33' to a 5/8"rebar with cap set on the common tract line of Tracts 6 and 5 of said Block 18;

Thence, with said common tract line, North 85°51'00" East a distance of 50.00' to a 5/8"rebar with cap set;

Thence, leaving said tract line, South 04°09'00" East a distance of 19.69' to a 5/8"rebar with cap set at an angle point;

Thence, South 38°50'49" West a distance of 138.39' to 5/8"rebar with cap set at an angle point;

Thence, South 00°00'00" East a distance of 1114.06' 5/8"rebar with cap set at an angle point;

Thence, roughly parallel with and north of an historically used dirt access road, North 86°16'29" East a distance of 1208.78' to 5/8"rebar with cap set on the west ROW line of Bosque Road (40' wide);

Thence, with said ROW line, South 00°09'00" East a distance of 50.10' to a PK nail set;

Thence, roughly parallel with and south of an historically used dirt access road, South 86°16'29" West a distance of 1228.95' to a 5/8"rebar with cap set at an angle point from whence an existing fence post lying at the northwesterly corner of a PSB water well site enclosure lies 5.3' southerly;

Thence, South 00°00'00" East a distance of 511.43' to a 5/8"rebar with cap set at an angle point;

Thence, South 90°00'00" West a distance of 30.00' to a 5/8"rebar with cap set on said west boundary line of said Condemnation Suit Parcel and also lying on the east tract line of Tract 6-G (described in book 1234, page 881) of said Block 18, and also lying North 00°08'21" East a distance of 313.81' from a 2" pipe found marking the northeast corner of Tract 8 of said Block 18;

Thence, with said west boundary line of said Condemnation Suit Parcel, North 00°00'00" West, passing the northeast corner of said Tract 6-G at a distance of 30.00', passing a rebar found at the southeast corner of Tract 6-H-1 (described in book 425, page 84 and book 2346, page 797) at a distance of 379.13', passing an old rebar found at the northeast corner of Tract 6-H-1-A (described in book 3209, page 2228) at a distance of 654.24', and continuing for a total distance of 1694.53' to the "Point Of Beginning" and containing 141,847 sq. ft. or 3.2564 acres.

Based on a field survey performed under my supervision and dated April 8, 2011

_____

John A Eby, Texas R.P.L.S. 5372 NM PLS 17779

Paso Del Norte Surveying Inc.
13998 Bradley Road
El Paso, TX. 79938
915-241-1841

EXHIBIT "A" 1 of 2

PLAT OF SURVEY

"PROPOSED BOSQUE LOOP"
A PORTION OF TRACT 6C & 6B1, BLOCK 18,
UPPER VALLEY SURVEYS
EL PASO COUNTY, TEXAS

CONTAINING:
141,847 SQ. FT. OR
3.2564 ACRES

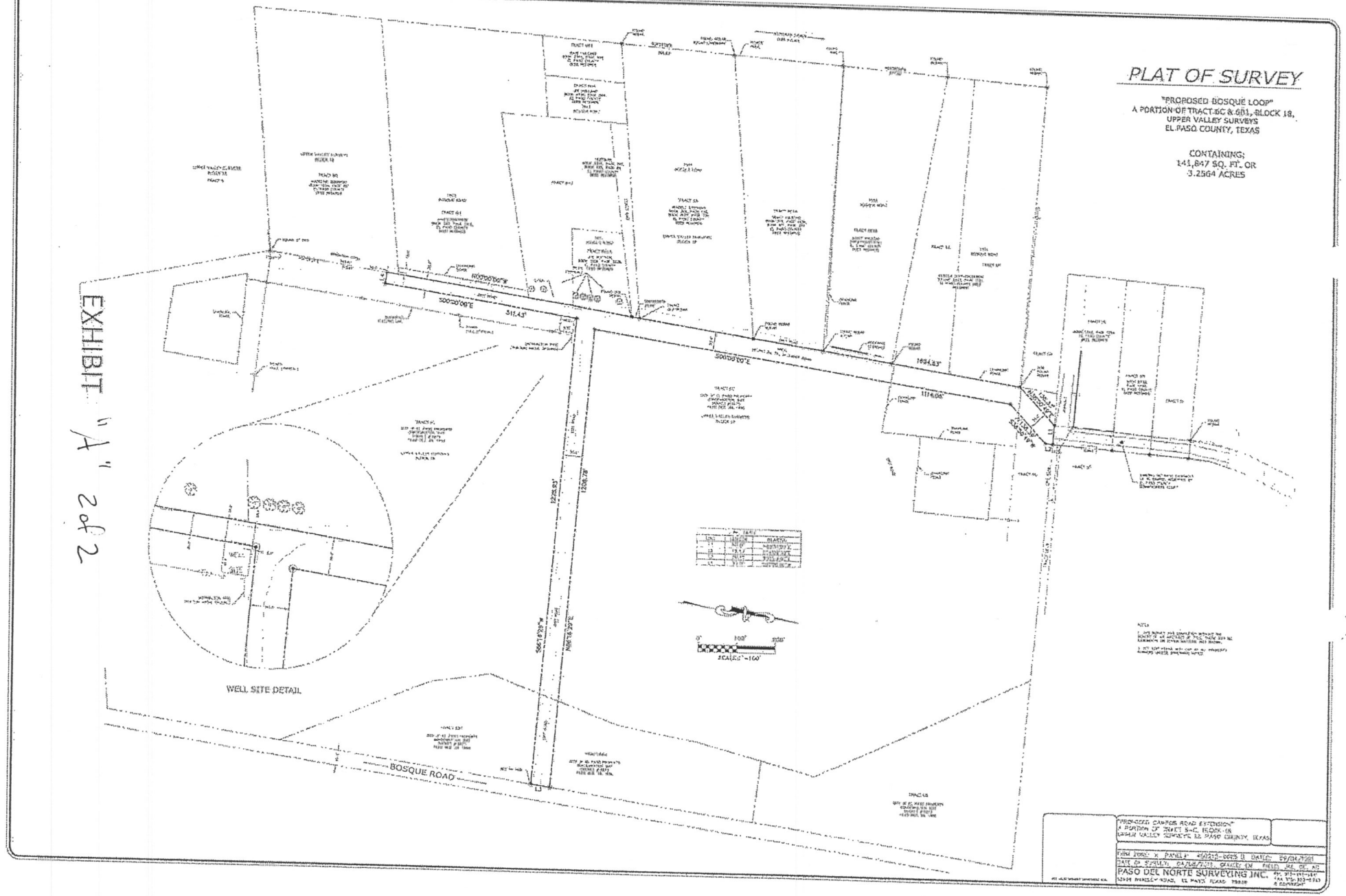


EXHIBIT "A" 2 of 2

"PROPOSED CAMPOS ROAD EXTENSION"
A PORTION OF TRACT 5-C, BLOCK 18
UPPER VALLEY SURVEYS, EL PASO COUNTY, TEXAS

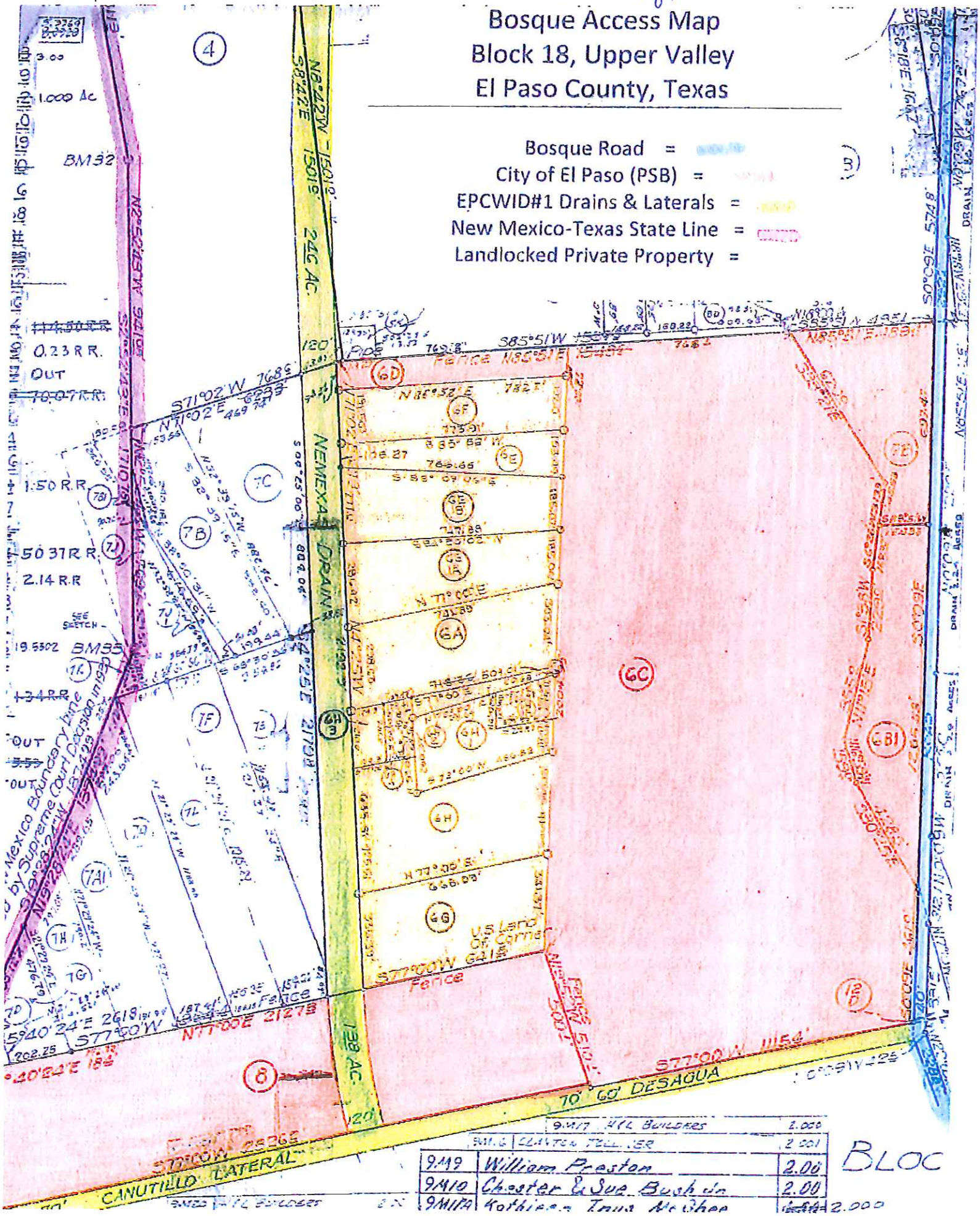
FIRM ZONE: X PANEL#: 480213-0005 B DATE: 09/04/2008
DATE OF SURVEY: 04/08/2021 SHEET OF FIELD BK. OF N/A

PASO DEL NORTE SURVEYING INC. PH: 915-877-1547
12498 RANKIN ROAD, EL PASO, TEXAS 79938 FAX: 915-833-9743

Exhibit "A" 1 of 1

Bosque Access Map
Block 18, Upper Valley
El Paso County, Texas

Bosque Road =
City of El Paso (PSB) =
EPCWID#1 Drains & Laterals =
New Mexico-Texas State Line =
Landlocked Private Property =



PROPERTY DESCRIPTION

BOSQUE LOOP ROW

Description of a parcel of land being a portion of Tracts 6-C and 6-B-1, Block 18, Upper Valley Surveys, El Paso County, Texas, as shown on Map of Block 18 by JW Carter and dated April 1930, and also being a portion of that parcel recorded in Condemnation Suit, Docket 15273 filed December 29, 1950, El Paso County District Clerks Records, and described as follows;

Beginning at a rebar found on the westerly boundary line of said Condemnation Suit Parcel and also marking the northeast corner of Tract 6-F of said Block 18 (described in book 2923, page 1121), said rebar lying North 00°00'00" West (Bearing Basis) a distance of 1019.61' from an old rebar found marking the southeast corner of Tract 6-A (described in book 329, page 132, and book 3627, page 730) and the northeast corner of Tract 6-H-2 (described in book 425, page 84 and book 2346, page 797), and being the "Point Of Beginning";

Thence, North 38°50'49" East a distance of 136.33' to a 5/8"rebar with cap set on the common tract line of Tracts 6 and 5 of said Block 18;

Thence, with said common tract line, North 85°51'00" East a distance of 50.00' to a 5/8"rebar with cap set;

Thence, leaving said tract line, South 04°09'00" East a distance of 19.69' to a 5/8"rebar with cap set at an angle point;

Thence, South 38°50'49" West a distance of 138.39' to 5/8"rebar with cap set at an angle point;

Thence, South 00°00'00" East a distance of 1114.06' 5/8"rebar with cap set at an angle point;

Thence, roughly parallel with and north of an historically used dirt access road, North 86°16'29" East a distance of 1208.78' to 5/8"rebar with cap set on the west ROW line of Bosque Road (40' wide);

Thence, with said ROW line, South 00°09'00" East a distance of 50.10' to a PK nail set;

Thence, roughly parallel with and south of an historically used dirt access road, South 86°16'29" West a distance of 1228.95' to a 5/8"rebar with cap set at an angle point from whence an existing fence post lying at the northwesterly corner of a PSB water well site enclosure lies 5.3' southerly;

Thence, South 00°00'00" East a distance of 511.43' to a 5/8"rebar with cap set at an angle point;

Thence, South 90°00'00" West a distance of 30.00' to a 5/8"rebar with cap set on said west boundary line of said Condemnation Suit Parcel and also lying on the east tract line of Tract 6-G (described in book 1234, page 881) of said Block 18, and also lying North 00°08'21" East a distance of 313.81' from a 2" pipe found marking the northeast corner of Tract 8 of said Block 18;

Thence, with said west boundary line of said Condemnation Suit Parcel, North 00°00'00" West, passing the northeast corner of said Tract 6-G at a distance of 30.00', passing a rebar found at the southeast corner of Tract 6-H-1 (described in book 425, page 84 and book 2346, page 797) at a distance of 379.13', passing an old rebar found at the northeast corner of Tract 6-H-1-A (described in book 3209, page 2228) at a distance of 654.24', and continuing for a total distance of 1694.53' to the "Point Of Beginning" and containing 141,847 sq. ft. or 3.2564 acres.

Based on a field survey performed under my supervision and dated April 8, 2011

John A Eby, Texas R.P.L.S. 5372 NM PLS 17779

Paso Del Norte Surveying Inc.
13998 Bradley Road
El Paso, TX. 79938
915-241-1841

EXHIBIT "~~A-1~~" B-1

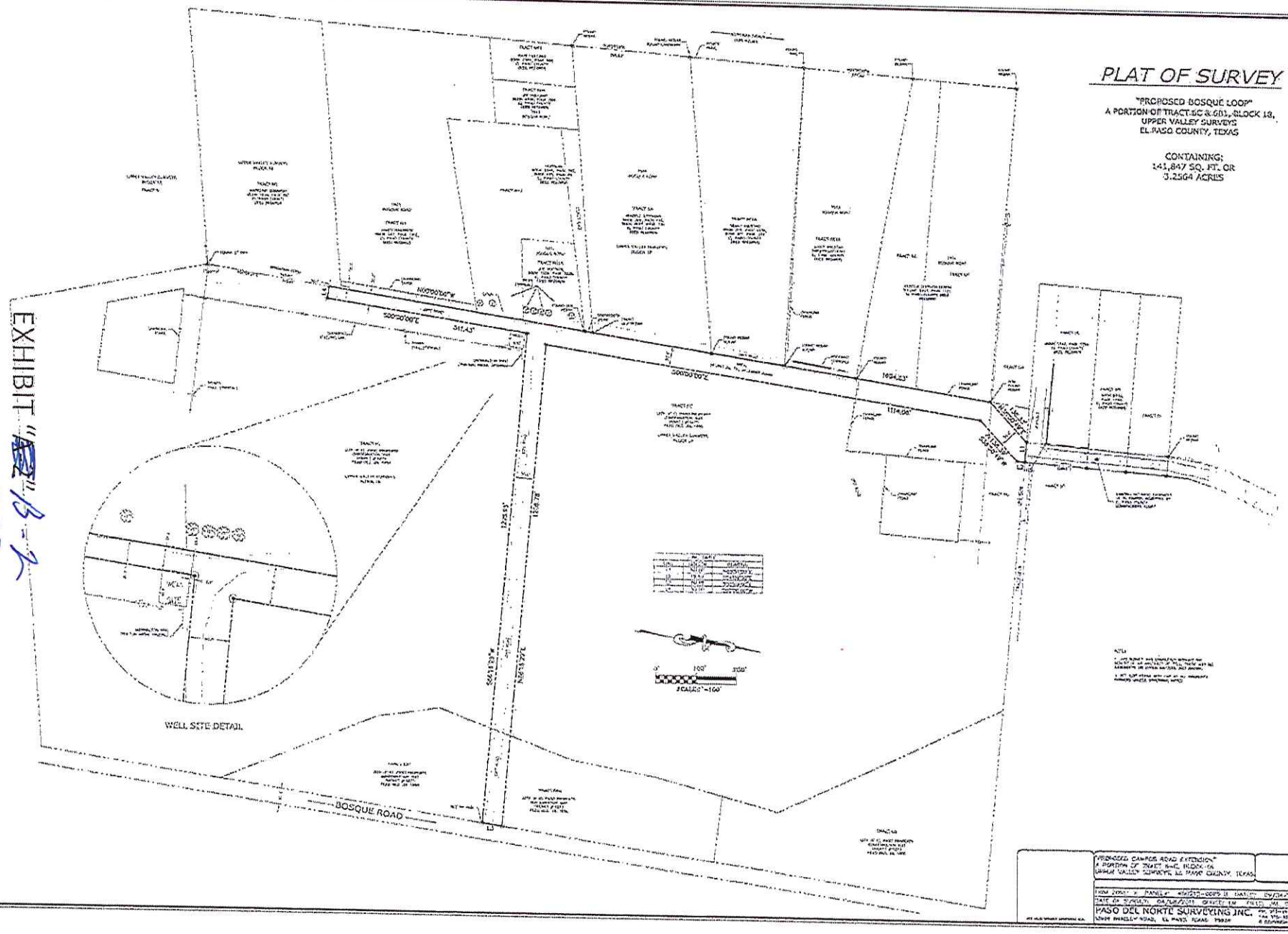
182

EXHIBIT "B-2"
2022

PLAT OF SURVEY

"PROPOSED BOSQUE LOOP"
A PORTION OF TRACT 6C & 6D1, BLOCK 18,
UPPER VALLEY SURVEYS
EL PASO COUNTY, TEXAS

CONTAINING:
141,847 SQ. FT. OR
3.2564 ACRES



PROPOSED CAMPOS ROAD EXTENSION
A PORTION OF TRACT 6-C, BLOCK 18
UPPER VALLEY SURVEYS, EL PASO COUNTY, TEXAS

PASO DEL NORTE SURVEYING INC.

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: _____

Grantor: The City of El Paso, Texas, a Texas Municipal Corporation
On Behalf of its El Paso Water Utilities Public Service Board Trustees

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

Grantee: The County of El Paso, Texas

Grantee's Mailing Address (including County): 500 East San Antonio, Ste. 301
El Paso, Texas 79901
El Paso County

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

Property: Being approximately 3.2564 acres of land, more or less, and consisting of a portion of Tracts 6-C and 6-B-1, Block 18, Upper Valley Surveys, El Paso County, Texas as shown on Map of Block 18 by JW Carter and dated April 1930, and also being a portion of that parcel recorded in Condemnation Suit, docket 15273 filed December 29, 1950, El Paso County District Clerk's Records, and more particularly described by metes and bounds 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 Property is being conveyed "AS IS", with no express or implied warranty being made for a particular use or purpose. Grantee shall be responsible, at its own cost, to conduct any necessary archeological or environmental surveys. Any remediation required as a result shall be at Grantee's sole cost.

2. 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, affecting the Property.

3. 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 or sources of groundwater of the City of El Paso, Texas.

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.

5. The Property is conveyed subject to the express condition that it be used solely for a roadway right of way and the roadway be paved by the El Paso County.

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 will all and singular, the rights and appurtenances thereto in any wise belonging, to have and to hold it to Grantee, Grantees 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, administers, 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, TEXAS

_____
Joyce A. Wilson, City Manager

APPROVED AS TO FORM:

_____
Assistant City Attorney

APPROVED AS TO FORM AND CONTENT:

Robert D. Andron
Robert D. Andron, General Counsel, EPWU

(ACCEPTANCE AND ACKNOWLEDGMENTS ON FOLLOWING PAGE)

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

EL PASO COUNTY, TEXAS

_____
County Judge

ATTEST:

_____
County Clerk

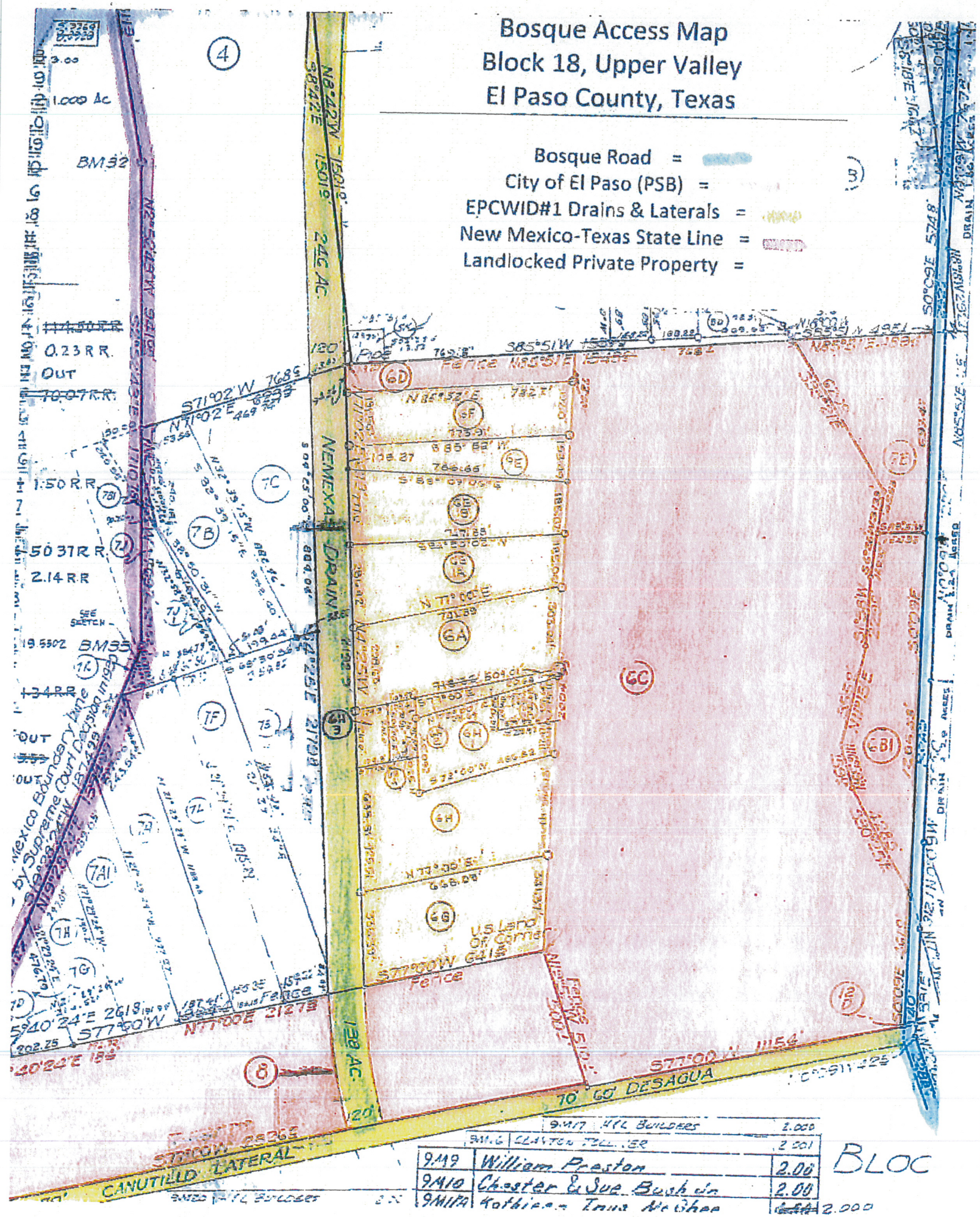
ACKNOWLEDGMENTS

STATE OF TEXAS

COUNTY OF EL PASO

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

_____
Notary Public, State of Texas

Bosque Access Map
Block 18, Upper Valley
El Paso County, Texas

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