

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

CITY CLERK DEPT.
09 JUL 22 AM 11:58

DEPARTMENT: Development Services Department
AGENDA DATE: July 28, 2009 Consent Agenda; Resolution
CONTACT PERSON/PHONE: Mathew McElroy, (915) 541-4193
DISTRICT(S) AFFECTED: 4

SUBJECT:

A Resolution that the City Manager be authorized to sign an Amendment and Partial Release and Satisfaction of Restrictions, Conditions and Reservation from Exceptions to Conveyance and Warranty removing certain restrictions from the Warranty Deed, dated January 25, 2006, which conveyed property to EPT Land Assets, LP and to sign and accept on behalf of the City a Warranty Deed conveying fee simple from EPT Land Assets, LP to the City certain property which will be used as a pedestrian right of way. (District 4)

BACKGROUND / DISCUSSION:

See attached resolution.

PRIOR COUNCIL ACTION:

N/A

AMOUNT AND SOURCE OF FUNDING:

N/A

BOARD / COMMISSION ACTION:

N/A

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

LEGAL: (if required) N/A

FINANCE: (if required) N/A

DEPARTMENT HEAD: _____

Mathew McElroy, Deputy Director of Planning

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 an Amendment and Partial Release and Satisfaction of Restrictions, Conditions and Reservation from Exceptions to Conveyance and Warranty removing certain restrictions from the Warranty Deed, dated January 25, 2006, which conveyed property to EPT Land Assets, LP and to sign and accept on behalf of the City a Warranty Deed conveying fee simple from EPT Land Assets, LP to the City certain property which will be used as a pedestrian right of way.

ADOPTED this _____ day of _____, 2009.

THE CITY OF EL PASO

ATTEST:

John F. Cook, Mayor

Richarda Duffy-Momsen
City Clerk

APPROVED AS TO FORM:

Lupe Cuellar
Assistant City Attorney

APPROVED AS TO CONTENT:

Mathew McElroy, Deputy Director
Development Services - Planning Division

09 JUL 23 PM 6:35

**AMENDMENT AND PARTIAL RELEASE AND SATISFACTION OF
RESTRICTIONS, CONDITIONS AND RESERVATIONS
FROM AND EXCEPTIONS TO CONVEYANCE AND WARRANTY
CITY OF EL PASO**

This Amendment and Partial Release of Restrictions, Conditions and Reservations From and Exceptions to Conveyance and Warranty (the "Amendment") is made this _____ day of _____, 2009 by the City of El Paso, Texas, a Texas Municipal Corporation On Behalf of El Paso Water Utilities Public Service Board (the "Grantor") in order to amend and release certain items labeled as Restrictions, Conditions, and Reservations from and Exceptions to Conveyance and Warranty (the "Restrictions") contained in that certain Special Warranty Deed dated January 25, 2006 recorded in Document No. 20060008469, El Paso County Real Property Records (the "Deed").

RECITALS:

Pursuant to the Deed, Grantor conveyed to EPT Land Assets, LP ("Grantee") approximately 122.2 acres of land out of Section 21, Block 81, Township 1, Texas and Pacific Railway Company Surveys, El Paso, El Paso County, Texas, and more particularly described in the Deed (the "Property").

At this time, Grantee has completed a number of the obligations as to the portions of the Property described below (the "Developed Property") making certain Restrictions inapplicable to the Developed Property. The term "Developed Property" as used herein shall mean the property described below:

Sandstone Ranch Estates Unit One, an addition to the City of El Paso, El Paso County, Texas according to the map thereof on File under instrument Number 20060123876 Real Property records of El Paso County, Texas.

Sandstone Ranch Estates Unit Two, an addition to the City of El Paso, El Paso County, Texas according to the map thereof on File under instrument Number 20070041697 Real Property records of El Paso County, Texas.

Sandstone Ranch Estates Unit Three, an addition to the City of El Paso, El Paso County, Texas according to the map thereof on File under instrument Number 20070073888 Real Property records of El Paso County, Texas.

Sandstone Ranch Estates Unit Four, an addition to the City of El Paso, El Paso County, Texas according to the map thereof on File under instrument Number 20080012896 Real Property records of El Paso County, Texas.

The parties acknowledge that, as of the date of this Amendment the subdivision improvements as to the Developed Property are complete and have been accepted by the City of El Paso for Maintenance in accordance with the Certificates of Subdivision Improvements Approval attached hereto as Exhibit A.

In order to acknowledge the satisfaction of certain obligations imposed by the Restrictions, the Grantor now wishes to amend and release certain Restrictions.

AMENDMENT AND RELEASE:

In consideration for Grantee deeding to the city in fee simple the following property described as being Lot 7, Block 16, Sandstone Ranch Estates Unit Five, City of El Paso, El Paso County and for other good and valuable consideration, including but not limited to the performance of obligations imposed by the Restrictions, Grantor hereby amends and releases the Restrictions to the extent provided below:

A. Restriction number 5 is deleted in its entirety and replaced with the following:

The property described on Exhibit A, Parcels C and D (the "Property") will be restricted to single family or multifamily dwellings and / or Neighborhood Support Services described below. However, no more than five percent (5%) of the acreage in the Property can be rezoned to a Commercial or Manufacturing zoning designation above C-1. Nothing herein will serve to restrict or limit the use of any portion of the Property for uses that are currently allowed in Residential Zoning designations as such Residential Zoning designations exist on the date of this Amendment (ie R-1, R-2, R-2A, R-3, R-3A, R-4, R-5, RMH, A-1, A-2, A-3, A-4, A-O, A-3\O, A-M).

"Neighborhood Support Services" are described as follows:

- Adult day care center
- Advertising sign
- Bakery
- Bank
- Barbershop
- Beauty salon
- Bicycle sales & repair
- Carwash, self service
- Church
- Clinic
- Commercial day care center
- Convalescent home
- Convenience store w/gas pumps
- Copy shop
- Delicatessen
- Drug store
- Dry cleaning shop
- Family home in a multifamily dwelling
- Financial institution
- Flower shops and greenhouses
- Garage, or parking lot
- Grocery store
- Hobby store
- Hospital

- Ice cream parlor
- Institutions, philanthropic
- Library
- Lodge
- Multifamily dwellings including elderly
- Museum
- Nursing home
- Office, business
- Office, medical
- Office, professional
- Pet shop
- Private club, meeting hall
- Racquetball club
- Radio broadcasting studio
- Rest home
- Restaurant
- School, public, private, trade, vocational
- Self storage warehouse
- Shoe repair shop
- Specialty shop
- Sporting goods store
- Studios and schools for business, arts, crafts, photography, music, dance
- Swimming pool (commercial)
- Television broadcasting studio
- Tennis club
- Tents for special purposes (temporary non-accessory)
- Theaters, no open air or drive-in theaters”

B. Restrictions 7, 11, 12, 13, 16 and 18 are released in their entirety as they apply to the Property.

C. The first two sentences of Item 14 is deleted in their entirety as to the Property.

D. The first three sentences of Item 15 are deleted in its entirety as to the Developed Property.

E. Item 8 is deleted in its entirety and replaced with the following:

Grantee agrees to grant easements at no cost to the El Paso Water Utilities Public Service Board for water and sewer facilities to the El Paso Utilities, City of El Paso, necessary to serve any and all of the parcels as shown on the attached Exhibit A or as requested by the El Paso Water Utilities at the time of subdivision plat submittal by the Grantee.

F. Item 9 is deleted in its entirety and replaced with the following:

Grantee agrees to be responsible for its proportionate share of the costs of any necessary on-site and off-site extensions, relocations, replacements or adjustments of water and sanitary sewer mains and appurtenances as a result of approved subdivision improvement plans submitted by the owner of land and attributable to the property being charged with the cost of the necessary on and offsite extensions, relocations, replacements or adjustments, all in accordance with the rules and regulations of the El Paso Utilities and in compliance with state laws. To the extent portions of the Property are owned by separate parties or entities, no portion of the Property will be charged with on-site or off-site extensions, relocation, replacement or adjustments to water and sanitary sewer mains and appurtenance that are not directly attributable to serving improvements on that portion of the Property.

- G. If a subdivision plat is recorded in the El Paso County Records, that includes a portion of the Property, now or in the future, the Restrictions under items 8, 9, 14, and 17 and the remaining last two sentences of item 15 (“Conditions”) shall be automatically released and deleted as to the portion of the Property included in the applicable subdivision plat upon issuance of a letter by the City of El Paso’s Development Services staff acknowledging the acceptance of the subdivision improvements called for by the subdivision plat or acknowledging that no subdivision improvements were required (“Approval Letter”). Once the Approval Letter is issued, no further action is required to release and delete these provisions as to the property covered by the City’s letter. Without limiting the foregoing, the City Manager is hereby authorized to execute reasonable documentation of the release of the Conditions upon receipt of a request.

MICELLANEOUS:

1. Except as amended and released by this Amendment, the Restrictions shall continue in full force and effect under their original terms.
2. Terms not otherwise defined herein shall have the same meaning as in the Deed.
3. Reference to numbers contained herein refer to the numbered provisions contained in the Deed listed under the Restrictions, Conditions, and Reservations from Exceptions to Conveyance and Warranty.

SIGNATURES ON FOLLOWING PAGE

Executed this _____ day of _____, 2009

CITY OF EL PASO

Approved as to form:

By: _____
Joyce Wilson, City Manager

STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was subscribed and acknowledged before me on the _____ day of _____, 2008 by Joyce Wilson, City Manager, the authorized signatory for the City of El Paso, Texas, on behalf and for the benefit of said corporation.

Notary in the State of Texas

EXHIBIT A
The Developed Property

**AMENDMENT AND PARTIAL RELEASE OF RESTRICTIONS, CONDITIONS AND
RESERVATIONS
FROM AND EXCEPTIONS TO CONVEYANCE AND WARRANTY
CITY OF EL PASO**

This Amendment and Partial Release of Restrictions, Conditions and Reservations From and Exceptions to Conveyance and Warranty (the "Amendment") is made this ____ day of _____, 2009 by the City of El Paso, Texas, a Texas Municipal Corporation On Behalf of El Paso Water Utilities Public Service Board (the "Grantor") in order to amend and release certain items labeled as Restrictions, Conditions, and Reservations from and Exceptions to Conveyance and Warranty (the "Restrictions") contained in that certain Special Warranty Deed dated January 25, 2006 recorded in Document No. 20060008470, El Paso County Real Property Records (the "Deed").

RECITALS:

Pursuant to the Deed, Grantor conveyed to EPT Land Assets, LP ("Grantee") approximately 100.5 acres of land out of Section 21, Block 81, Township 1, Texas and Pacific Railway Company Surveys, El Paso, El Paso County, Texas, and more particularly described in the Deed (the "Property").

At this time, Grantee has completed a number of the obligations as to the portions of the Property described below (the "Developed Property") making certain Restrictions inapplicable to the Developed Property. The term "Developed Property" as used herein shall mean the property described below:

Sandstone Ranch Estates Unit One, an addition to the City of El Paso, El Paso County, Texas according to the map thereof on File under instrument Number 20060123876 Real Property records of El Paso County, Texas.

Sandstone Ranch Estates Unit Two, an addition to the City of El Paso, El Paso County, Texas according to the map thereof on File under instrument Number 20070041697 Real Property records of El Paso County, Texas.

Sandstone Ranch Estates Unit Three, an addition to the City of El Paso, El Paso County, Texas according to the map thereof on File under instrument Number 20070073888 Real Property records of El Paso County, Texas.

Sandstone Ranch Estates Unit Four, an addition to the City of El Paso, El Paso County, Texas according to the map thereof on File under instrument Number 20080012896 Real Property records of El Paso County, Texas.

The parties acknowledge that, as of the date of this Amendment the subdivision improvements as to the Developed Property are complete and have been accepted by the City of El Paso for Maintenance in accordance with the Certificates of Subdivision Improvements Approval attached hereto as Exhibit A.

09 JUL 23 AM 11:39
CITY CLERK DEPT.

In order to acknowledge the satisfaction of certain obligations imposed by the Restrictions, the Grantor now wishes to amend and release certain Restrictions.

AMENDMENT AND RELEASE:

For good and valuable consideration, including but not limited to the performance of obligations imposed by the Restrictions, Grantor hereby amends and releases the Restrictions to the extent provided below:

A. Restriction number 5 is deleted in its entirety and replaced with the following:

The property described on Exhibit A, Parcels C and D (the "Property") will be restricted to single family or multifamily dwellings and / or Neighborhood Support Services described below. However, no more than five percent (5%) of the acreage in the Property can be rezoned to a Commercial or Manufacturing zoning designation above C-1. Nothing herein will serve to restrict or limit the use of any portion of the Property for uses that are currently allowed in Residential Zoning designations as such Residential Zoning designations exist on the date of this Amendment (ie R-1, R-2, R-2A, R-3, R-3A, R-4, R-5, RMH, A-1, A-2, A-3, A-4, A-O, A-3\O, A-M).

"Neighborhood Support Services" are described as follows:

- Adult day care center
- Advertising sign
- Bakery
- Bank
- Barbershop
- Beauty salon
- Bicycle sales & repair
- Carwash, self service
- Church
- Clinic
- Commercial day care center
- Convalescent home
- Convenience store w/gas pumps
- Copy shop
- Delicatessen
- Drug store
- Dry cleaning shop
- Family home in a multifamily dwelling
- Financial institution
- Flower shops and greenhouses
- Garage, or parking lot
- Grocery store

- Hobby store
- Hospital
- Ice cream parlor
- Institutions, philanthropic
- Library
- Lodge
- Multifamily dwellings including elderly
- Museum
- Nursing home
- Office, business
- Office, medical
- Office, professional
- Pet shop
- Private club, meeting hall
- Racquetball club
- Radio broadcasting studio
- Rest home
- Restaurant
- School, public, private, trade, vocational
- Self storage warehouse
- Shoe repair shop
- Specialty shop
- Sporting goods store
- Studios and schools for business, arts, crafts, photography, music, dance
- Swimming pool (commercial)
- Television broadcasting studio
- Tennis club
- Tents for special purposes (temporary non-accessory)
- Theaters, no open air or drive-in theaters”

B. Restrictions 7, 11, 12, 13, 16 and 18 are released in their entirety as they apply to the Property.

C. The first two sentences of Item 14 is deleted in their entirety as to the Property.

D. The first three sentences of Item 15 are deleted in its entirety as to the Developed Property.

E. Item 8 is deleted in its entirety and replaced with the following:

Grantee agrees to grant easements at no cost to the El Paso Water Utilities Public Service Board for water and sewer facilities to the El Paso Utilities, City of El Paso, necessary to serve any and all of the parcels as shown on the attached Exhibit A or as requested by the El Paso Water Utilities at the time of subdivision plat submittal by the Grantee.

F. Item 9 is deleted in its entirety and replaced with the following:

Grantee agrees to be responsible for its proportionate share of the costs of any necessary on-site and off-site extensions, relocations, replacements or adjustments of water and sanitary sewer mains and appurtenances as a result of approved subdivision improvement plans submitted by the owner of land and attributable to the property being charged with the cost of the necessary on and offsite extensions, relocations, replacements or adjustments, all in accordance with the rules and regulations of the El Paso Utilities and in compliance with state laws. To the extent portions of the Property are owned by separate parties or entities, no portion of the Property will be charged with on-site or off-site extensions, relocation, replacement or adjustments to water and sanitary sewer mains and appurtenance that are not directly attributable to serving improvements on that portion of the Property.

G. If a subdivision plat is recorded in the El Paso County Records, that includes a portion of the Property, now or in the future, the Restrictions under items 8, 9, 14, and 17 and the remaining last two sentences of item 15 ("Conditions") shall be automatically released and deleted as to the portion of the Property included in the applicable subdivision plat upon issuance of a letter by the City of El Paso's Development Services staff acknowledging the acceptance of the subdivision improvements called for by the subdivision plat or acknowledging that no subdivision improvements were required ("Approval Letter"). Once the Approval Letter is issued, no further action is required to release and delete these provisions as to the property covered by the City's letter. Without limiting the foregoing, the City Manager is hereby authorized to execute reasonable documentation of the release of the Conditions upon receipt of a request.

MICELLANEOUS:

1. Except as amended and released by this Amendment, the Restrictions shall continue in full force and effect under their original terms.
2. Terms not otherwise defined herein shall have the same meaning as in the Deed.
3. Reference to numbers contained herein refer to the numbered provisions contained in the Deed listed under the Restrictions, Conditions, and Reservations from Exceptions to Conveyance and Warranty.

Executed this _____ day of _____, 2009

CITY OF EL PASO

Approved as to form:

By: _____
Joyce Wilson, City Manager

STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was subscribed and acknowledged before me on the _____ day of _____, 2008 by Joyce Wilson, City Manager, the authorized signatory for the City of El Paso, Texas, a Texas municipal corporation, on behalf and for the benefit of said corporation.

Notary in the State of Texas

EXHIBIT A
The Developed Property

*File 53-1
30 Approval 1*

JOHN COOK
Mayor

JOYCE WILSON
CITY MANAGER



CITY COUNCIL
ANN MORGAN JELLY, DISTRICT 1
SUSANNAH M. BYRN, DISTRICT 2
J. ALEXANDRO LOZANO, DISTRICT 3
MELINA CASTRO, DISTRICT 4
RACHEL QUINTANA, DISTRICT 5
RODIE HOLLGUM, JR., DISTRICT 6
STEVE ORIEGA, DISTRICT 7
BETO O'Rourke, DISTRICT 8

DEVELOPMENT SERVICES DEPARTMENT

July 10, 2007

CERTIFICATE
SUBDIVISION IMPROVEMENTS APPROVAL

Sandstone Ranch Estates Unit One, Phase I
Being a Portion of Section 21, Block 81, TSP 1, Texas and Pacific Railroad Co. Surveys,
City Of El Paso, El Paso County, Texas
Containing: 56.61 Acres
EPT Investments 551
Richard Aguilar, President
Melina Castro
District 4

The subdivision improvements in the above described subdivision have been satisfactorily inspected and approved pursuant to Chapter 10.32 (Inspection and Acceptance of Improvements) of Title 19 (Subdivisions) of the Municipal Code and is being accepted for maintenance by the City. The subdivision improvements described have been completed in accordance with the subdivision improvement plans and specifications.

Submitted this 25th day of JULY, 2007.

R. Alan Shubert, P.E., C.B.O.
City Engineer

File 53-2

CITY COUNCIL
JOHN COOK
MAYOR

JOYCE WILSON
CITY MANAGER

R. ALAN SHIBERT, P.E., C.B.O.
CITY ENGINEER



ANN MORGAN LILLY, DISTRICT 1
SUSANNAH M. BYRD, DISTRICT 2
J. ALEXANDRO LOZANO, DISTRICT 3
MELINA CASTRO, DISTRICT 4
RACHEL QUINTANA, DISTRICT 5
EDDIE HOLGUIN JR., DISTRICT 6
STEVE ORTEGA, DISTRICT 7
BETO O'ROURCE, DISTRICT 8

FEBRUARY 14, 2008

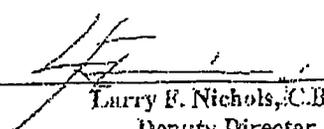
DEVELOPMENT SERVICES DEPARTMENT
BUILDING PERMITS & INSPECTIONS DIVISION

CERTIFICATE
SUBDIVISION IMPROVEMENTS APPROVAL

Sandstone Ranch Estates Unit Two
Being a Portion of Section 21, Block 81, Township 1, Texas and Pacific Railroad Company
Surveys, City of El Paso, El Paso County, Texas
Containing: 45.992 Acres
Richard Aguilar, Manager 552
Melina Castro
District 4

The subdivision improvements in the above described subdivision have been satisfactorily inspected and approved pursuant to Chapter 10.32 (Inspection and Acceptance of Improvements) of Title 19 (Subdivisions) of the Municipal Code and is being accepted for maintenance by the City. The subdivision improvements described have been completed in accordance with the subdivision improvement plans and specifications.

Submitted this 14 day of FEB, 2008.



Larry F. Nichols, C.B.O.
Deputy Director

CITY COUNCIL
JOHN COOK
MAYOR

JOYCE WILSON
CITY MANAGER

R. ALAN SHUBERT, P.E., C.B.O.
CITY ENGINEER



ANN MORGAN LILLY, DISTRICT 1
SUSANNAH M. BYRD, DISTRICT 2
J. ALEXANDRO LOZANO, DISTRICT 3
MELINA CASTRO, DISTRICT 4
RACHEL QUINTANA, DISTRICT 5
EDDIE HOLGUIN JR., DISTRICT 6
STEVE ORTEGA, DISTRICT 7
BETO O'ROURKE, DISTRICT 8

All: Joseph/Tony
Fax: 313-7470
585-6302

DECEMBER 11, 2007

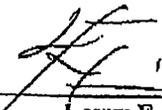
DEVELOPMENT SERVICES DEPARTMENT
BUILDING PERMITS & INSPECTIONS DIVISION

CERTIFICATE
SUBDIVISION IMPROVEMENTS APPROVAL

Sandstone Ranch Estates Unit Three
Being a Portion of Section 21, Block 81, TSP 1, Texas and Pacific Railroad Co. Surveys,
City of El Paso, El Paso County, Texas
Containing: 26.779 Acres
EP Land Assets, LP. 553
Richard Aguilar, Manager
Melina Castro
District 4

The subdivision improvements in the above described subdivision have been satisfactorily inspected and approved pursuant to Chapter 10.32 (Inspection and Acceptance of Improvements) of Title 19 (Subdivisions) of the Municipal Code and is being accepted for maintenance by the City. The subdivision improvements described have been completed in accordance with the subdivision improvement plans and specifications.

Submitted this 28 day of MARCH, 2008.



Larry F. Nichols, C.B.O.
Deputy Director

Sep 12 2008 11:20AM CITY OF EL PASO
JOHN COOK
MAYOR

JOYCE WILSON
CITY MANAGER

VICTOR TORRES
DIRECTOR



No. 3989 P. 1

ANN MORGAN LILLY, DISTRICT 1
SUSANNAH M. BYRD, DISTRICT 2
EMMA ACOSTA, DISTRICT 3
MELINA CASTRO, DISTRICT 4
RACHEL QUINTANA, DISTRICT 5
EDDIE HOLGUIN JR., DISTRICT 6
STEVE ORTEGA, DISTRICT 7
BETO O'ROURKE, DISTRICT 8

Attn: M. Castro
Fax: 585-6302

AUGUST 13, 2008

DEVELOPMENT SERVICES DEPARTMENT
BUILDING PERMITS & INSPECTIONS DIVISION

CERTIFICATE
SUBDIVISION IMPROVEMENTS APPROVAL

Sandstone Ranch Estates Unit Four
Being a Portion of Section 21, Block 81, TSP 1, Texas and Pacific Railroad Co. Surveys,
City of El Paso, El Paso County, Texas
Containing: 30.878 Acres 554
EP Land Assets, L.P.
Richard Aguilar, Manager
Melina Castro
District 4

The subdivision improvements in the above described subdivision have been satisfactorily inspected and approved pursuant to Chapter 10.32 (Inspection and Acceptance of Improvements) of Title 19 (Subdivisions) of the Municipal Code and is being accepted for maintenance by the City. The subdivision improvements described have been completed in accordance with the subdivision improvement plans and specifications.

Submitted this 11 day of September, 2008.

Victor Q. Torres
Director