

## CITY OF EL PASO, TEXAS

### AGENDA ITEM DEPARTMENT HEAD'S SUMMARY FORM

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

**AGENDA DATE:** August 14, 2012 Introduction  
August 28, 2012 Public Hearing

**CONTACT PERSON/PHONE:** Marcela Navarrete, Chief Finance Officer (915) 594-5614

**DISTRICT(S) AFFECTED:** El Paso County

**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 to convey a small tract of land consisting of 0.0482 acres of city land under the jurisdiction of the El Paso Water Utilities Public Service Board, to the adjacent homeowner, Ruben Luera, Jr., and wife Matilde Luera. The Property is located adjacent to Marvin Drive and Buntline Road in Far Eastern El Paso County, Texas. The Ordinance authorizes the City Manager to sign any and all necessary documentation to complete the conveyance. (Contact Person: Marcela Navarrete, El Paso Water Utilities: 594-5614) [Introduction August 14, 2012 and Public Hearing Date: August 28, 2012]

**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?

**Background:**

A resident homeowner whose property is adjacent to an abandoned and plugged water well site requested the El Paso Water Utilities Public Service Board to sell to him the abandoned water well site. The small tract of land consists of 2,100 square feet and is adjacent to Marvin Drive and Buntline Road in far eastern El Paso County.

At a regular meeting held August 10, 2011, the El Paso Water Utilities Public Service Board found by Minute Order that the land is inexpedient to the system and authorized the staff to sell the land to the adjacent property owner. The property owner is willing to pay the sum of \$1,900, its comparative value, to include all closing costs. Attached is a copy of the Minutes and an aerial of the property.

Please accept the enclosed Ordinance for introduction and public hearing by the City Council at its regular City Council meetings. Introduction to be August 14, 2012 and Public Hearing to be August 28, 2012.

Department Head's Summary Form  
Ordinance to Convey Land to Ruben Luera, Jr.  
Agenda- Introduction – August 14, 2012  
Public Hearing-August 28, 2012

Page 2.

**PRIOR COUNCIL ACTION:**

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

Yes. The El Paso Water Utilities passed a resolution August 10, 2011 declaring a 10.14 acres parcel of city land under the jurisdiction of the El Paso Water Utilities to be inexpedient to the system, awarding the sale of the land to the sole bidder Jobe Materials, L.P. in the amount of \$1,572,101.00 and requesting the City Council to authorize the City Manager to sign a Special Warranty Deed and any necessary documents to convey the land. The City Council passed an ordinance authorizing the City Manager to sign a Special Warranty Deed to Jobe Materials, L.P. November 29, 2011.

**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 City of El Paso will receive 5% of the net proceeds of the sale.

**BOARD / COMMISSION ACTION:**

Enter appropriate comments or N/A

At a regular meeting held August 10, 2011, the El Paso Water Utilities Public Service Board found by Minute Order that the land is inexpedient to the system and authorized the staff to sell the land to the adjacent property owner. The property owner is willing to pay the sum of \$1,900, its comparative value, to include all closing costs. Attached is a copy of the Minutes and an aerial of the property.

\*\*\*\*\*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:** \_\_\_\_\_



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

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

DATE: July 31, 2012

SUBJECT: Request to place Item on City Council Agenda:  
Ordinance Introduction: August 14, 2012  
Ordinance Public Hearing: August 28, 2012

An Ordinance authorizing the City Manager to sign a Special Warranty Deed to convey a small tract of land consisting of 0.0482 acres of city land under the jurisdiction of the El Paso Water Utilities Public Service Board, to the adjacent homeowner, Ruben Luera, Jr., and his wife, Matilde Luera. The Property is located adjacent to Marvin Drive and Buntline Road in Far Eastern El Paso County, Texas. The Ordinance authorizes the City Manager to sign any and all necessary documentation to complete the conveyance. (Contact Person: Marcela Navarrete, El Paso Water Utilities: 594-5614) [Introduction August 14, 2012 and Public Hearing Date: August 28, 2012]

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**ORDINANCE INTRODUCTION AND PASSAGE – City Council Agenda –**  
**Introduction: August 14, 2012; and Public Hearing: August 28, 2012**

**Background**

A resident homeowner whose property is adjacent to an abandoned and plugged water well site requested the El Paso Water Utilities Public Service Board to sell to him the abandoned water well site. The small tract of land consists of 2,100 square feet and is adjacent to Marvin Drive and Buntline Road in far eastern El Paso County.

At a regular meeting held August 10, 2011, the El Paso Water Utilities Public Service Board found by Minute Order that the land is inexpedient to the system and authorized the staff to sell the land to the adjacent property owner. The property owner is willing to pay the sum of \$1,900, its comparative value, to include all closing costs. Attached is a copy of the Minutes and an aerial of the property.

Please accept the enclosed Ordinance for introduction and public hearing by the City Council at its regular City Council meetings. Introduction to be August 14, 2012 and Public Hearing to be August 28, 2012.

City Manager Joyce A. Wilson  
Department Memo, July 31, 2012  
Request for Item for City Council Agenda  
**Ordinance—Introduction – August 14, 2012**  
**Public Hearing—August 28, 2012.**  
Page 2

### ACTION REQUESTED

Pass and adopt an Ordinance authorizing the City Manager to sign a Special Warranty Deed to convey a small tract of land consisting of 0.0482 acres of city land under the jurisdiction of the El Paso Water Utilities Public Service Board, to the adjacent homeowner, Ruben Luera, Jr., and wife Matilde Luera. The Property is located adjacent to Marvin Drive and Buntline Road in Far Eastern El Paso County, Texas. The Ordinance authorizes the City Manager to sign any and all necessary documentation to complete the conveyance.

### REQUEST TO PLACE ITEM ON THE CITY COUNCIL AGENDA

Attached is a copy of the Ordinance and the Official Minutes of the El Paso Water Utilities Public Service Board which established the land as inexpedient to the water and wastewater system and authorized the sale of same. 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.

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](mailto:bandron@epwu.org). El Paso Water Utilities Staff will attend the City Council meeting on Tuesday, August 14, 2012. Thank you for your kind attention to this matter.

#### Attachments

Cc: The Honorable Mayor John Cook (email)  
City Council Representatives (email)  
Sylvia Firth, City Attorney (email)  
Richarda Duffy-Momsen, City Clerk (hard copies & email)  
Marcela Navarrete, CPA, Vice President of Strategic, Financial & Management Services (email)  
Art Duran, Chief Finance Officer, PSB (email)

p:\2012-2013\june2012\CityCouncilItems\BackupToCityMgrMemo.0.04acres.sale.luera.july2012mw

NOTICE: The regular meeting of the Public Service Board will be held at 9:00 a.m., Wednesday, August 10, 2011, at the Public Service Board Meeting Room, 1154 Hawkins Boulevard, El Paso, Texas.

CITY OF EL PASO  
PUBLIC SERVICE BOARD  
AGENDA

August 10, 2011

9:00 a.m.

#3  
#6  
#12  
#17  
#18  
#19  
#20  
#22  
#23  
#24

NOTICE TO THE PUBLIC

All matters listed under the CONSENT AGENDA will be considered by the Public Service Board to be routine and will be enacted by one motion in the form listed below. There will be no separate discussion of these items unless members of the Board or persons in the audience request specific items be removed from the CONSENT AGENDA to the REGULAR AGENDA for discussion prior to the time the Public Service Board votes on the motion to adopt the CONSENT AGENDA. The Public Service Board may reconsider an agenda item at any time prior to adjournment. Comment as to any regular agenda item may be allowed by the Chair at its discretion. Reasonable time limits may be imposed by the Chair.

- CALL TO ORDER
- ESTABLISHMENT OF A QUORUM
- MOMENT OF SILENT PRAYER
- PLEDGE OF ALLEGIANCE

CONSENT AGENDA

2011-12

11-13

1. Consider approval of the minutes of the regularly scheduled meeting held on July 13, 2011.
2. Consider approval of the execution of Task Order No. 2, Construction Administration and RPR Services, for Chihuahuita Storm Sewer System & Pump Station Improvements, to CEA Group, in the amount of \$196,467.25.
3. Consider approval of the execution of Task Order No. 2, Construction Administration and RPR Services, for Mesa Street 24-Inch Water Line Replacement Project, to Huit-Zollars, Inc., in the amount of \$117,147.00; and authorize the use of Commercial Paper funding.
4. Consider award of a contract extension for two additional months to Kohler Rental Power in the amount of \$43,432.00 to provide backup power supply to the Canal Water Treatment Plant.
5. Consider award of a contract extension for an additional month to Wagner Equipment Company in the amount of \$20,868.00 for rental of emergency power generators for various wells and pump stations.
6. Consider adoption of a Resolution authorizing the President/CEO of the El Paso Water Utilities Public Service Board (PSB) to participate in Purchasing Cooperative Programs.

REGULAR AGENDA

7. Presentation of the Safest Section of the Quarter Awards (Second Quarter 2011).
8. Presentation of the Distinguished Budget Presentation Award from the Government Finance Officers Association for the FY 2011-12 Budget to Marcela Navarrete, CPA, Chief Financial Officer.
9. Presentation of awards from the National Association of Clean Water Agencies (NACWA) for consistent, long-term compliance with discharge permit standards for the Fred Hervey Water Reclamation Plant and the Northwest Wastewater Treatment Plant.
10. Briefing by HILLCo Partners on 2011 State Legislative Session.
11. Consider and authorize the President/CEO to proceed with an RFP for a scalable 2.5 megawatt solar facility at the Kay Bailey Hutchison Desalination Plant.

2011-14

12. Consider award of the rebid of Bid No. 33-11, Eastside Service Area 24-inch Water Line Limits, to the lowest responsive, responsible bidder, Red Cliff, Inc., in the total amount of \$1,165,080.00; and authorize the use of Commercial Paper funding.
13. Consider award of Bid No. 13-11, EPWU Well Drilling Project (Wells 16B, 21B, 25A, 208, 312, 404B, 417A, 525, 526) to the lowest responsive, responsible bidder, Hydro Resources, in the amount of \$3,263,825.00.
14. Consider award of Bid No. SW24-11, Furnish, Install, Repair and/or Replace Metal Beam Guard Fence (MBGF) & Associated Appurtenances, to the lowest responsive, responsible bidder, Water Conservation Services Company, in the estimated amount of \$165,270.50.
15. Consider award of Bid No. 26-11, Trench Safety Equipment, to the lowest responsive, responsible bidder, El Paso Trench Safety Equipment, Inc., in the estimated amount of \$287,878.50.
16. Consider award of Bid No. 38-11, Large Precast Concrete Meter Boxes, to the lowest responsive, responsible bidder, Western Precast Concrete, Inc., in the estimated amount of \$186,750.00.

2011-15

17. Consider approval of the Engineering Team of Bath Engineering Corporation, as recommended by the Architect/Engineer Selection Advisory Committee, for the Vista Del Sol 10 MGD Pump Station; and authorize the use of Commercial Paper funding.

2011-16

18. Consider approval of the Engineering Team of Moreno Cardenas, Inc., as recommended by the Architect/Engineer Selection Advisory Committee, for the Vista Del Sol Pump Station 24-Inch Transmission Waterline; ; and authorize the use of Commercial Paper funding.

2011-17

19. Consider approval of the Engineering Team of Malcolm Pirnie, Inc., as recommended by the Architect/Engineer Selection Advisory Committee, for the Northeast Franklin 24-Inch Transmission Waterline; and authorize the use of Commercial Paper funding.

11-18

20. Consider approval of the Engineering Team of Huitf-Zollars, Inc., as recommended by the Architect/Engineer Selection Advisory Committee, for the Resler North of Transmountain 24-Inch Transmission Main; and authorize the use of Commercial Paper funding.

11-19

21. Consider approval of the Engineering Team of Parkhill, Smith and Cooper, Inc., as recommended by the Architect/Engineer Selection Advisory Committee, for the 2,500 GPM Newman Reclaimed Water Pump Station and 16-Inch Transmission Main; and authorize the use of Commercial Paper funding.

11-20

22. Consider award of Bid No. 31-11, Real Estate Sale – 10.14 acres, to the sole bidder, Jobe Materials, LP, in the amount of \$1,572,101.00.

1-21

23. Consider adoption of a Resolution authorizing the President and CEO to submit a full application to the U.S. Department of Agriculture-Rural Development (USDA-RD) for grant funds for design and construction of a one-million-gallon water storage reservoir located on PSB Property east of Westway, plus approximately a total of 6,300 linear feet of 16- and 18-inch water transmission mains through Westway to provide adequate pressure and capacity to serve the entire Village of Vinton in the El Paso Upper Valley outside the El Paso City limits. The PSB will perform Consultant Selection, Project Engineering Management, Grant Administration and Construction Management Services for the proposed project.

11-22

24. Consider and authorize a temporary wastewater service contract with Horizon Municipal Utility District (MUD).

25. Consider and accept the report of the Utility's Purchasing Policies and Procedures prepared by Gibson, Ruddock, Patterson (GRP), the Utility's external auditors, and to implement its recommendations.
26. Management Report.
  - Trip to Washington DC
  - Stormwater Safety Campaign
27. Public Comment: The PSB will permit public comment on any item not on the agenda. The Chair may impose reasonable time limits for each speaker.

#### EXECUTIVE SESSION

The Public Service Board will retire in Executive Session pursuant to Section 3.5A of the El Paso City Charter and the Texas Government Code, Sections 551.071 through 551.076. (The items listed below are matters of the sort to be discussed in Executive Session; however, the Public Service Board may move to Executive Session any item of this agenda, consistent with the terms of the Open Meetings Act.)

|                 |                                      |
|-----------------|--------------------------------------|
| Section 551.071 | Consultation with Attorney           |
| Section 551.072 | Deliberation regarding Real Property |

- a. Deliberation regarding Real Property (Section 551.072)  
The Public Service Board will deliberate regarding the value of a tract of land located on Marvin Drive in Far East El Paso to be purchased by an adjacent property owner for the expansion of his homesite. The site is 2,100 square feet and is a Portion of Lot 6, Block 2, Homestead Meadows South Replat C, El Paso County, Texas. This site is an old vacated and plugged MUD Well Site.
- b. Deliberation regarding Real Property (Section 551.072)  
The Public Service Board will deliberate regarding the sale and value of a 20 foot wide EPWU Utility Right-of-Way located at the rear of 6758 Edgemere Drive. The site is approximately 11,375 square feet and is a Portion of Lot 1, Block 2, International Industrial Center, El Paso, El Paso County, Texas.
- c. Consultation with Attorney (Section 551.071)  
Claim of Alberto Sandoval.
- d. Consultation with Attorney (Section 551.071)  
The Public Service Board will consult with General Counsel regarding the Hueco Mountain Village Subdivision in East El Paso County.
- e. Consultation with Attorney (Section 551.071)  
The Public Service Board will consult with General Counsel regarding the Bio-Mass Co-Generation Project for the Haskell Street, Fred Hervey, Bustamante wastewater treatment plants.

Any action as a result of these discussions will be taken at the re-opening of this meeting or at a subsequent meeting.

Adjournment.

ALL PUBLIC SERVICE BOARD AGENDAS ARE PLACED ON THE INTERNET AT [WWW.EPWU.ORG](http://WWW.EPWU.ORG)

relations, collaborations with area agencies and English/Spanish tip sheets. She presented the Board with sample billboard ads to be used during the campaign, as well as radio ads for broadcasting.

PUBLIC COMMENT: THE PSB WILL PERMIT PUBLIC COMMENT ON ANY ITEM NOT ON THE AGENDA. THE CHAIR MAY IMPOSE REASONABLE TIME LIMITS FOR EACH SPEAKER.

There were no additional comments from the public.

**EXECUTIVE SESSION**

On a motion made by Ms. Brennan, seconded by Dr. Schoephoerster, and unanimously carried, the Board retired in Executive Session at 12:06 p.m., August 10, 2011, pursuant to Section 3.5A of the El Paso City Charter and the Texas Government Code, Sections 551.071 through 551.076 to discuss any of the following:

|                 |                                      |
|-----------------|--------------------------------------|
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- b. Deliberation regarding Real Property (Section 551.072)  
The Public Service Board will deliberate regarding the sale and value of a 20 foot wide EPWU Utility Right-of-Way located at the rear of 6758 Edgemere Drive. The site is approximately 11,375 square feet and is a Portion of Lot 1, Block 2, International Industrial Center, El Paso, El Paso County, Texas.
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The Public Service Board will consult with General Counsel regarding the Bio-Mass Co-Generation Project for the Haskell Street, Fred Hervey, Bustamante wastewater treatment plants.

On a motion made by Ms. Brennan, seconded by Dr. Nemi, and unanimously carried, the Board reconvened in open session at 1:31 p.m., August 10, 2011.

THE PUBLIC SERVICE BOARD WILL DELIBERATE REGARDING THE VALUE OF A TRACT OF LAND LOCATED ON MARVIN DRIVE IN FAR EAST EL PASO TO BE PURCHASED BY AN ADJACENT PROPERTY OWNER FOR THE EXPANSION OF HIS

HOMESITE. THE SITE IS 2,100 SQUARE FEET AND IS A PORTION OF LOT 6, BLOCK 2, HOMESTEAD MEADOWS SOUTH REPLAT C, EL PASO COUNTY, TEXAS. THIS SITE IS AN OLD VACATED AND PLUGGED MUD WELL SITE.

On a motion made by Mayor Cook, seconded by Dr. Nemir, and unanimously carried, the Board found the land identified to be inexpedient to the needs of the Utility and authorized the staff to recommend the sale based on comparative values.

THE PUBLIC SERVICE BOARD WILL DELIBERATE REGARDING THE SALE AND VALUE OF A 20 FOOT WIDE EPWU UTILITY RIGHT-OF-WAY LOCATED AT THE REAR OF 6758 EDGEMERE DRIVE. THE SITE IS APPROXIMATELY 11,375 SQUARE FEET AND IS A PORTION OF LOT 1, BLOCK 2, INTERNATIONAL INDUSTRIAL CENTER, EL PASO, EL PASO COUNTY, TEXAS.

On a motion made by Mayor Cook, seconded by Ms. Brennan, and unanimously carried, the Board found the land identified to be inexpedient to the needs of the Utility and authorized the staff to recommend the sale based on comparative values and include remote meter reading as part of the terms of the sale.

CLAIM OF ALBERTO SANDOVAL.

On a motion made by Mayor Cook, seconded by Ms. Brennan, and unanimously carried, the Board authorized the Utility's outside attorney to negotiate a settlement in the matter of the agenda item identified above.

THE PUBLIC SERVICE BOARD WILL CONSULT WITH GENERAL COUNSEL REGARDING THE HUECO MOUNTAIN VILLAGE SUBDIVISION IN EAST EL PASO COUNTY.

On a motion made by Mayor Cook, seconded by Dr. Bonart, and unanimously carried, the Board authorized the President/CEO to negotiate the takeover of the Hueco Mountain Village Subdivision Wastewater System.

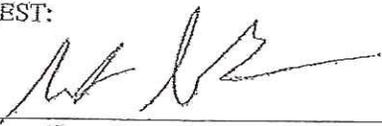
THE PUBLIC SERVICE BOARD WILL CONSULT WITH GENERAL COUNSEL REGARDING THE BIO-MASS CO-GENERATION PROJECT FOR THE HASKELL STREET, ERED HERVEY, BUSTAMANTE WASTEWATER TREATMENT PLANTS.

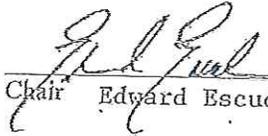
On a motion made by Mayor Cook, seconded by Dr. Bonart, and unanimously carried, the Board authorized the President/CEO, with the contractor, to pursue remedies to complete the project and seek additional grant increases.

ADJOURNMENT

The meeting was adjourned at 1:25 p.m., August 10, 2011.

ATTEST:

  
\_\_\_\_\_  
Secretary Treasurer  
Richard T. Schoephoerster

  
\_\_\_\_\_  
Chair Edward Escudero

relations, collaborations with area agencies and English/Spanish tip sheets. She presented the Board with sample billboard ads to be used during the campaign, as well as radio ads for broadcasting.

**PUBLIC COMMENT: THE PSB WILL PERMIT PUBLIC COMMENT ON ANY ITEM NOT ON THE AGENDA. THE CHAIR MAY IMPOSE REASONABLE TIME LIMITS FOR EACH SPEAKER.**

There were no additional comments from the public.

**EXECUTIVE SESSION**

On a motion made by Ms. Brenmand, seconded by Dr. Schoephoerster, and unanimously carried, the Board retired in Executive Session at 12:06 p.m., August 10, 2011, pursuant to Section 3.5A of the El Paso City Charter and the Texas Government Code, Sections 551.071 through 551.076 to discuss any of the following:

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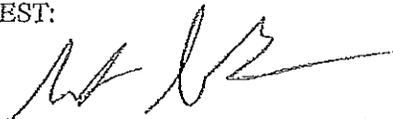
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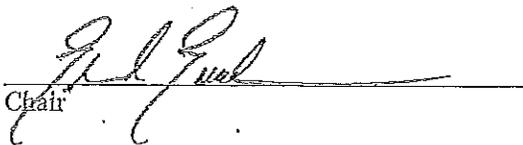
ADJOURNMENT

The meeting was adjourned at 1:25 p.m., August 10, 2011.

ATTEST:



Secretary Treasurer

  
Chair

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AUTHORIZING THE CITY MANAGER OF THE CITY OF EL PASO TO SIGN A SPECIAL WARRANTY DEED AND ANY OTHER DOCUMENTS NECESSARY TO CONVEY TO RUBEN LUERA, JR. AND MATILDE LUERA A 0.0482 ACRE PARCEL, MORE OR LESS, BEING A PORTION OF LOT 6, BLOCK 2, HOMESTEAD MEADOWS SOUTH REPLAT C, CITY OF CLINT, EL PASO COUNTY, TEXAS.**

**WHEREAS**, the El Paso Water Utilities Public Service Board has been delegated the 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 County, Texas, including an identified 0.0482 acre parcel, which is an abandoned and plugged water well site located adjacent to Marvin Drive and Buntline Road;

**WHEREAS**, in accordance with Section 272.001 of the Texas Local Government Code, EPWU staff has recommended that the identified parcel be sold to the abutting property owner because the parcels are narrow strips of land and because of its small area cannot be used independently under the current zoning or under applicable subdivision or other development control ordinances;

**WHEREAS**, the El Paso Water Utilities Public Service Board passed a resolution finding the identified 0.0482 acre parcel inexpedient to the System, and that the land should be sold to the abutting property owner;

**WHEREAS**, Ruben Luera, Jr. and Matilde Luera are the abutting property owner;

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

That the City Manager is hereby authorized to execute (1) a Special Warranty Deed, in form and substance approved by the City Attorney or her designee and (2) and any other necessary documents, as required for the sale and conveyance to Ruben Luera, Jr. and Matilde Luera the following identified real property:

A 0.0482 acres, more or less being a portion of Lot 6, Block 2, Homestead Meadows Unit 3, Replat C, City of Clint, El Paso County, Texas and more particularly described in Exhibit "A", attached hereto and made a part hereof for all purposes.

PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

CITY OF EL PASO

\_\_\_\_\_  
John F. Cook  
Mayor

ATTEST:

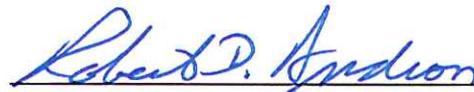
\_\_\_\_\_  
Richarda Duffy Momsen  
City Clerk

APPROVED AS TO FORM:

APPROVED AS TO FORM:



\_\_\_\_\_  
Theresa Cullen  
Deputy City Attorney



\_\_\_\_\_  
Robert D. Andron, General Counsel  
El Paso Water Utilities

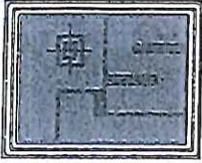


EXHIBIT "A"  
PAGE 1 OF 2

# PRECISION LAND SURVEYORS

10441 VALLE DE ORO DR.

El Paso, Texas 79927

Ph# (915) 222-5227

Being a 2,100 sq. ft. 0.0482 acre portion of  
**Lot 6, Block 2, Homestead Meadows Unit 3, Replat C,**  
City of Clint, El Paso County, Texas,  
October 19, 2011

## METES AND BOUNDS DESCRIPTION

Description of a parcel of land being a **portion of Lot 6, Block 2, Homestead Meadows Unit 3, Replat C**, City of Clint, El Paso County, Texas, same portion described by Book 1641, Page 0743 in the El Paso County Deed Records and being more particularly described by metes and bounds as follows:

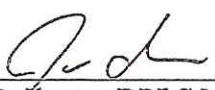
Commencing for reference at a found 2" pipe held for the southeast corner of Section 5, Block 78, Township 2, Texas & Pacific Railway Company Survey, thence South 89°59'58" West along the center line of Marvin Lane (120.00 foot R.O.W.) a distance of 2,028.81 feet, thence North 00°33'40" West a distance of 60.00 feet to a point from which a found ½" rebar with cap "4680" bears South 17°06'16" West 1.57 feet and from which a found ½" rebar at the northwest corner of said Lot 6 bears North 20°00'10" West 255.35 feet, said point also being the **"TRUE POINT OF BEGINNING"**.

Thence leaving said right of way line thence, **North 00°33'40" West** a distance of **70.00 feet** to a point from which a found ½" rebar with cap "4680" bears South 30°10'03" East 0.76 feet;

Thence, **North 89°59'58" East** a distance of **30.00 feet** to a point from which a found ½" rebar with cap "4680" bears South 34°05'01" East 0.55 feet;

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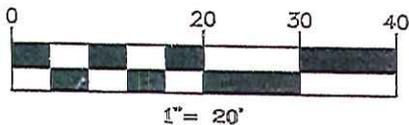
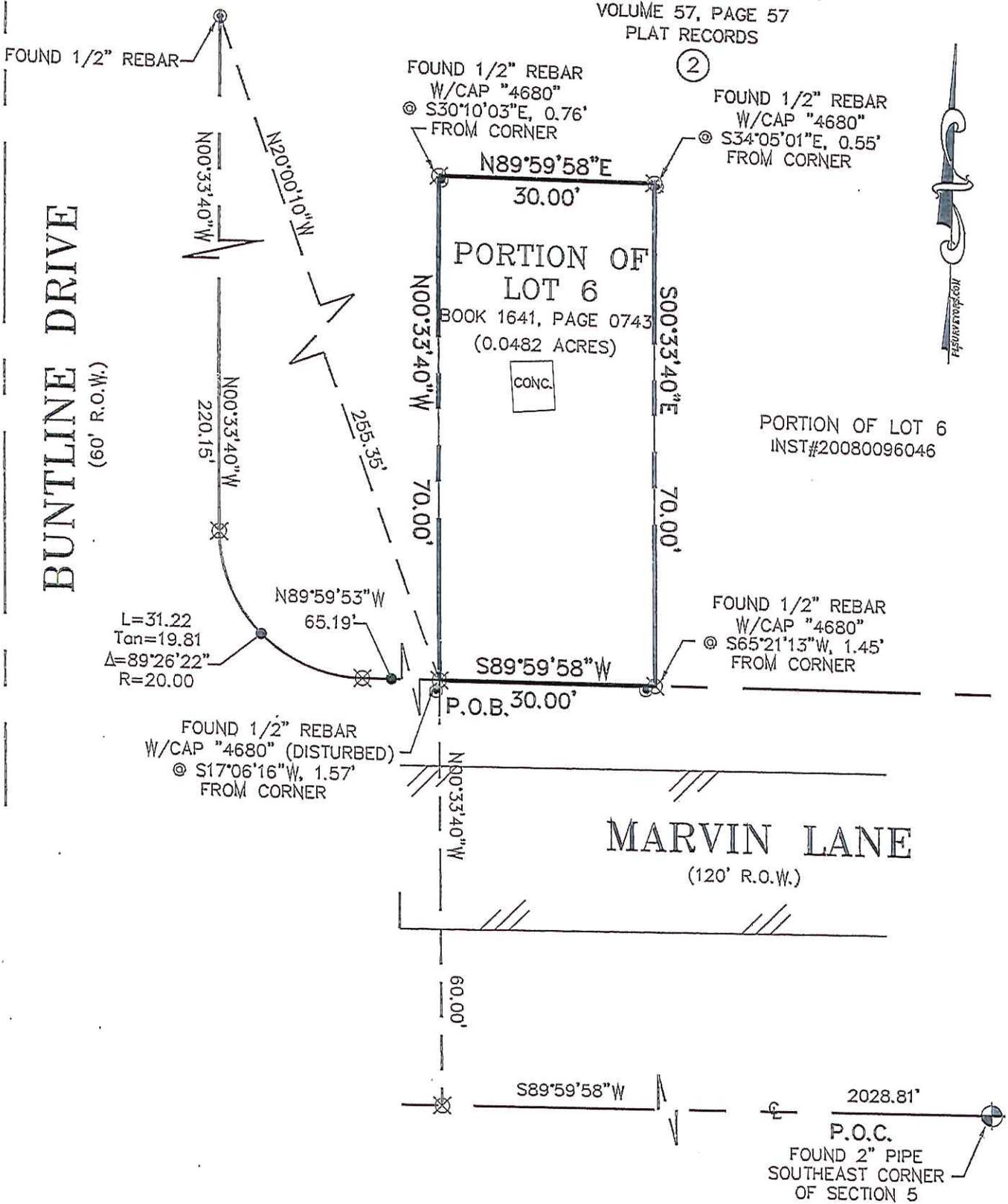
Thence with said right of way line, **South 89°59'58" West** a distance of **30.00 feet** to **"TRUE POINT OF BEGINNING"** and containing in all a **2,100 sq. ft. 0.0482 acre** of land more or less. ;

  
Jesus D. Ibarra, RPLS No.6085



HOMESTEAD MEADOWS SOUTH  
UNIT 3, REPLAT "C"

VOLUME 57, PAGE 57  
PLAT RECORDS



CERTIFICATION  
I HEREBY CERTIFY THAT THE FOREGOING BOUNDARY AND IMPROVEMENT SURVEY  
WAS MADE BY ME OR UNDER MY SUPERVISION AND THAT THERE ARE NO  
ENCROACHMENTS EXCEPT AS SHOWN. ONLY PLATTED EASEMENTS ARE SHOWN.

JESUS D. IBARRA RPLS#6085



STATE OF TEXAS §  
§  
COUNTY OF EL PASO §

CONTRACT OF SALE

This Agreement is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2012, by and between the **CITY OF EL PASO on behalf of the El Paso Water Utilities Public Service Board**, hereinafter referred to as the "PSB" as Seller and **Ruben Luera Jr. & Matilde Luera** hereinafter referred to as the "Buyer."

**NOW THEREFORE**, for and in consideration of the premises and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **Description of Property.** The City hereby agrees to sell and convey and the Buyer hereby agrees to acquire the following described real property located in El Paso County, Texas:

**A 0.0482 acre parcel portion Lot 6, Block 2, Homestead Meadows, Unit 3, Replat C, El Paso County, Texas, same portion described by Book 57, Page 57 in the El Paso County Deed Records and more particularly described in Exhibit "A,"**

together with any interest in (i) all improvements and fixtures, and (ii) all right, title and interest of the PSB in and to all easements, appurtenances, and right-of-ways, and all interests in, on or to, any land, highway or street, in, on, across, in front of, abutting, or adjoining any such real property, all of such property, hereinafter referred to as the "Property." In addition, the following conditions will be applicable to the PSB's sale of the Property:

- 1.1 **Radioactive Materials.** Any conveyance of this Property will be subject to a restrictive covenant in the Deed to the effect that the Buyer, its successors or assigns, will not in violation of any applicable laws, discard, place, or store upon such land, any radioactive material or other materials which would contaminate or otherwise damage the ground water supply or resources of the PSB.
- 1.2 **Surveys.** The Buyer accepts responsibility for conducting its own archeological and environmental surveys of the Property. Mitigation of any conditions on the Property, including archeological sites or, without limitations, adverse environmental conditions, shall be at the expense of the Buyer who shall take the Property subject to all existing conditions. The Buyer accepts responsibility for its determination of the nature and extent of any archeological sites, or without limitations, any adverse environmental conditions by its complete inspection of the Property.
- 1.3 **Easements.** Easements for water and wastewater lines, if not located in public streets, shall be provided at no cost to the City or its Public Service Board.

CITY CLERK DEPT.  
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- 1.4 **Groundwater.** All ground water, water rights, or rights to surface water shall be reserved to the PSB and will be subject to all easements, restrictions, reservations, rights of way, dedications and other encumbrances of record or apparent upon the property. The Buyer shall not have the right to drill a well and produce therefrom any quantity of groundwater.
2. **Amount of Payment of Purchase Price.** The purchase price for the property shall be ONE THOUSAND NINE HUNDRED DOLLARS (\$1,900.00) plus buyer will pay all closing cost including cost of survey and appraisals as identified in Paragraph 5.2.
  - 2.1 **Payment of Sales Price.** The full amount of the purchase price will be payable in cash at the closing.
  - 2.2 **Earnest Money.** The PSB will require a cash deposit of in the amount of \$300.00 which will be credited to the purchase price at the time of closing. Earnest Money will be deposited in an interest bearing account with Texas Title Company, 1360 North Lee Trevino Drive, El Paso, Texas 79936.
3. **Conditions to the Buyer's Obligations.** The obligations of the Buyer hereunder are to consummate the transaction contemplated herein are subject to the satisfaction of each of the following conditions, any of which may be waived, in whole or in part, in writing by the Buyer, at or prior to Closing.
  - 3.1 **Title Insurance.** Within fourteen (14) days after receipt of written notification of the PSB's acceptance of the Buyer's offer, the Buyer shall provide the PSB with all information necessary to close the sale with the intent that, without good cause existing or further delay, it is anticipated that the PSB and the Buyer will close within thirty (30) days from the date of the approval of the City Council of an ordinance authorizing the sale of the Property. The Buyer at its expense will order a title commitment ("Commitment") from Texas Title Company, accompanied by copies of all recorded documents affecting the Property for the issuance of an Owner's Policy of Title Insurance with respect to the Property, in an amount to be decided by the Buyer ("Owner's Policy").
  - 3.2 **Title Objections.** The Buyer will give the PSB written notice after it receives the Commitment that the condition of the title set forth in the Commitment is or is not satisfactory. In the event the Buyer states that the condition is not satisfactory, the Buyer will specifically set forth in such notice the defect or exception to title that is deemed objectionable. The PSB may promptly undertake to eliminate or modify all unacceptable matters to the reasonable satisfaction of the Buyer. Otherwise, this condition will be deemed acceptable and any objection by the Buyer will be deemed waived.
4. **Representations of PSB.** The PSB hereby represents, to the extent allowed by law, to the Buyer that to the best of its knowledge, as follows:

- 4.1 **Parties in Possession.** At the time of closing, other than the Buyer, there are no parties in possession of any portion of the Property as lessees, tenants at sufferance, or otherwise.
- 4.2 **Mechanic's Lien.** (i) No action has been taken, suffered or permitted by or on behalf of the PSB, the effect of which would be to establish or cause the inception or priority of any mechanic's or materialmen's lien, statutory, constitutional or otherwise, or other lien, charge or encumbrance upon the Property or any part thereof or interest therein; and (ii) no liens or lien claims, choate or inchoate, arising from the PSB's actions or otherwise, exist or can exist for the benefit of mechanics or materialmen in regard to the Property; and (iii) except as expressly disclosed in the documents relating to this transaction, the PSB has not entered into any contracts or agreements relating to the use or ownership of the Property or by which any person or entity agreed to provide labor, services or materials in regard to the Property or the business of the PSB.
- 4.3 **Litigation.** There is no pending or contemplated litigation before or by any court of law pertaining to the Property or which involve incidents occurring on the Property including, but not limited to, claims of damage to persons or Property.
- 4.4 **Bills Paid.** At closing, there will be no unpaid bills or claims in connection with any repair or operation of the Property as a result of the PSB's ownership.
- 4.5 **Compliance Law.** All laws, ordinances, rules and regulations of any Government or any agency, body or subdivision thereof, bearing in the PSB's development of the Property, have been complied with.
- 4.6 **Taxes.** While the PSB owned the Property, the Property was exempt from ad valorem taxes.
- 4.7 **Pre-Closing Claims.** PSB agrees that the Buyer's acceptance of title to the Property under the conveyance documents should not create any liability on the Buyer's part to third parties that have claims of any kind against the PSB in connection with the Property. The PSB hereby expressly disclaims any and all liability to third parties that have any claims against the PSB.
- 4.8 **Condition of Property Prior to Closing.** Prior to Closing, the PSB shall not create or permit to be created any easement or other condition affecting the Property without the prior written consent of the Buyer. See paragraph 1.3 referring to proposed utility easement.
- 4.9 **"AS IS, WHERE IS."** THIS CONTRACT IS AN ARMS-LENGTH AGREEMENT BETWEEN THE PARTIES. THE PURCHASE PRICE WAS BARGAINED ON THE BASIS OF AN "AS IS, WHERE IS" TRANSACTION. THE BUYER ACCEPTS THE AS IS, WHERE IS, AND WITH ALL FAULTS, AND EXCEPT AS THE WARRANTY OF TITLE, WITHOUT ANY REPRESENTATIONS OR WARRANTIES OF WHATSOEVER KIND, EXPRESS OR IMPLIED, WRITTEN OR ORAL, IT BEING THE INTENTION OF THE PSB AND THE BUYER TO

EXPRESSLY NEGATE AND EXCLUDE ALL REPRESENTATIONS AND WARRANTIES OF ANY KIND, INCLUDING, BUT NOT LIMITED TO THOSE REGARDING: (A) THE CONDITION OF THE PROPERTY; (B) THE SUITABILITY OF THE PROPERTY FOR ANY AND ALL ACTIVITIES AND USES WHICH THE BUYER MAY CONDUCT THEREON; (C) THE COMPLIANCE OF OR BY THE PROPERTY OR ITS OPERATION WITH ANY LAWS, RULES, ORDINANCES OR REGULATIONS OF ANY APPLICABLE GOVERNMENTAL AUTHORITY OR BODY; AND (D) THE HABITABILITY, MERCHANTABILITY, MARKETABILITY, PROFITABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE PROPERTY. THE BUYER FURTHER ACKNOWLEDGES AND AGREES THAT, HAVING BEEN GIVEN THE OPPORTUNITY TO INSPECT THE PROPERTY, THE BUYER IS RELYING SOLELY ON ITS OWN INVESTIGATION OF THE PROPERTY AND NOT ON ANY INFORMATION PROVIDED OR TO BE PROVIDED BY THE PSB OTHER THAN AS REGARDS THE EXISTING PSB EASEMENTS AND THE PSB PIPELINES AND EQUIPMENT WITHIN SUCH EASEMENTS. THE BUYER FURTHER ACKNOWLEDGES AND AGREES THAT ANY INFORMATION PROVIDED OR TO BE PROVIDED WITH RESPECT TO THE PROPERTY WAS OBTAINED FROM A VARIETY OF SOURCES AND THAT THE PSB HAS NOT MADE ANY INDEPENDENT INVESTIGATION OR VERIFICATION OF SUCH INFORMATION AND MAKES NO REPRESENTATIONS AS TO THE ACCURACY OR COMPLETENESS OF SUCH INFORMATION. THE PSB IS NOT LIABLE OR BOUND IN ANY MANNER BY ANY VERBAL OR WRITTEN STATEMENTS, REPRESENTATIONS OR INFORMATION PERTAINING TO THE PROPERTY, OR THE OPERATION THEREOF, FURNISHED BY ANY BROKER, AGENT, ATTORNEY, EMPLOYEE OR OTHER PERSON. IT IS UNDERSTOOD AND AGREED THAT THE PURCHASE PRICE FOR THE PROPERTY REFLECTS THAT ALL OF THE PROPERTY IS SOLD BY THE PSB AND PURCHASED BY THE BUYER SUBJECT TO THE FOREGOING.

4.10 **ENVIRONMENTAL MATTERS.** AFTER CLOSING, BETWEEN THE PSB AND THE BUYER, THE RISK OF LIABILITY OR EXPENSE FOR ENVIRONMENTAL PROBLEMS, EVEN IF ARISING FROM EVENTS BEFORE CLOSING, WILL BE THE SOLE RESPONSIBILITY OF THE BUYER, REGARDLESS OF WHETHER THE ENVIRONMENTAL PROBLEMS WERE KNOWN OR UNKNOWN AT CLOSING. ONCE CLOSING HAS OCCURRED, THE BUYER SHALL INDEMNIFY, HOLD HARMLESS, AND RELEASE THE PSB FROM LIABILITY FOR ANY LATENT DEFECTS AND FROM ANY LIABILITY FOR ENVIRONMENTAL PROBLEMS AFFECTING THE PROPERTY, INCLUDING LIABILITY UNDER THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT (CERCLA), THE RESOURCE CONSERVATION AND RECOVERY ACT (RCRA), THE TEXAS SOLID WASTE DISPOSAL ACT, OR THE TEXAS WATER CODE.

~~4.11 **Buyer's use.** The Buyer represents to the PSB that it intends to use the property in accordance with the conditions in Exhibit "B" attached hereto and made a part hereof~~



~~for all purposes. Buyer will comply with all City, State and Federal Law and/or Ordinances.~~

4.12 **Survival.** All agreements of the PSB made in this document shall survive the execution and delivery hereof and the Closing hereunder, until such time as all of the obligations of the signatories hereto shall have lapsed in accordance with their respective terms or shall have been discharged in full.

5. **Closing.** The closing of this transaction ("Closing") shall take place at the offices of Lone Star Title Company on or before the later of (i) thirty (30) days from the Effective Date; or (ii) thirty (30) days after the execution of this Agreement by the PSB and City Manager of the City of El Paso, subject to delays due to the PSB's efforts to cure any title objection under Section 3.2.

5.1 **Possession.** Possession of the Property will be transferred to the Buyer upon Closing.

5.2 **Closing Costs.**

(a) All recording fees arising from the recordation of documents necessary to show good title to the Property in the Buyer shall be paid by the Buyer.

(b) Premiums and other charges for the issuance of the Owner's Policy of Title Insurance for the Property shall be paid by the Buyer.

(c) Real Estate Appraisal and Survey fees shall be paid by Buyer.

5.3 **PSB's Obligations.** At Closing, the PSB shall deliver to the Buyer a duly executed and acknowledged Special Warranty Deed conveying the Property and any related easements, free and clear of any and all liens, encumbrances, conditions, easements, assessments, and restrictions, except for (i) ad valorem taxes for the year of Closing, if any, which shall be prorated to the date of Closing, and assumed by the Buyer upon closing, (ii) the standard printed exceptions contained in the usual form of the Owner's Policy, and (iii) any other exceptions set forth in the Title Policy which the Buyer has approved pursuant to Paragraph 4 above.

5.4 **Other Obligations.** Each party shall do all other acts, or deliver any other instruments or documents required or helpful to be done or delivered, in order to consummate this transaction.

6. **Default.**

- 6.1 **Breach by PSB.** In the event that the PSB shall fail to fully and timely perform any of its obligations under this Agreement, or shall fail to consummate the sale of the Property for any reason, except the Buyer's default, or the termination of this Agreement in accordance with its terms, the PSB agrees to absorb the costs the PSB may have incurred in preparation for the sale of the Property.
- 6.2 **Breach by the Buyer.** In the event that the Buyer shall fail to fully and timely perform any of its obligations under this Agreement, or shall fail to consummate the sale of the Property for any reason, except the PSB's default, or the termination of this Agreement in accordance with its terms, the PSB may seek specific performance of this agreement.

7. **Miscellaneous.**

- 7.1 **Notice.** Any notice, demand, direction, request, or other instrument authorized or required by this Agreement to be given to or filed with either party, shall be deemed to have been sufficiently given or filed for all purposes, if and when personally delivered or sent by certified mail, postage prepaid, return receipt requested, to the address specified below or at such other address as may be designated in writing by the parties:

PSB: Edmund G. Archuleta, P.E.  
President/CEO  
El Paso Water Utilities Public Service Board  
1154 Hawkins Blvd.  
El Paso, Texas 79925

Buyer: Mr. Ruben Luera Jr.  
913 Navarrette Circle  
El Paso, Texas 79907-2057

8. **Entire Agreement / Governing Law.** This Agreement constitutes the entire agreement between the parties, and supersedes all prior agreements and understandings, written or oral, regarding the subject matter of this Agreement, and may be amended or supplemented only by an instrument in writing, executed by the party against whom enforcement is sought. This Agreement shall be governed in all respects, including validity, interpretation and effect, by and shall be enforceable in accordance with the laws of the State of Texas.

8.1 **Time.** Time is of the essence of this Agreement and each and every provision hereof.

8.2 **Severability.** If any provision of this Agreement shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining portion shall not in any way be affected or impaired.

8.3 **Survival of Provisions.** The terms contained in this Agreement, including without limitation, representations, warranties, covenants and agreements of the parties, shall

survive the Closing and shall not be merged therein. In case any one or more of the provisions contained in this contract for any reason is held invalid, this invalidity will not affect any other provision of this Contract, which will be construed as if the invalid or unenforceable provision had never existed.

8.4 **Binding Effect.** This Agreement shall be binding upon the parties hereto and their respective successors and assigns.

8.5 **Compliance.** In accordance with the requirements of Section 2B of the Texas Real Estate License Act, the Buyer is hereby advised that it should be furnished with or obtain a policy of title insurance or have an abstract covering the Property examined by an attorney of its own selection.

8.6 **Effective Date.** As used herein, "Effective Date" shall mean the date of the approval of City Council of an Ordinance authorizing the sale of the Property.

The above instrument, together with all conditions thereto is hereby executed by the City this \_\_\_\_\_ day of \_\_\_\_\_, 2012

**SELLER:**

EL PASO WATER UTILITIES  
PUBLIC SERVICE BOARD

By:   
Edmund G. Archuleta  
President/CEO

CITY OF EL PASO  
A Municipal Corporation

By: \_\_\_\_\_  
Joyce A. Wilson, City Manager

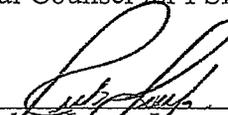
APPROVED AS TO CONTENT:

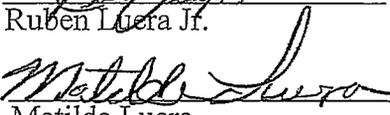
  
James E. Shelton, Jr.  
Utility Land & Water Rights Manager

APPROVED AS TO FORM:

  
Robert D. Andron  
General Counsel for PSB

**BUYER:**

By:   
Ruben Luera Jr.

By:   
Matilde Luera

*(Acknowledgements continue on next page)*

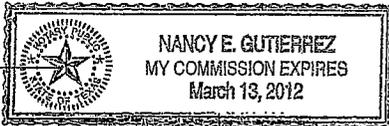
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ACKNOWLEDGMENTS

STATE OF TEXAS )  
 )  
COUNTY OF EL PASO )

This instrument was acknowledged before me on the 13th day of January, ~~2011~~ 2012, by Edmund G. Archuleta, President & CEO of El Paso Water Utilities Public Service.

My Commission Expires:  
March 13, 2012



Nancy E. Gutierrez  
Notary Public, State of Texas

STATE OF TEXAS )  
 )  
COUNTY OF EL PASO )

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

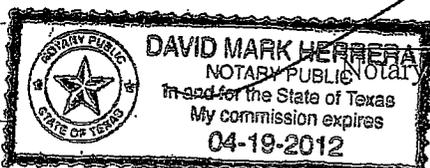
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STATE OF TEXAS )  
 )  
COUNTY OF EL PASO )

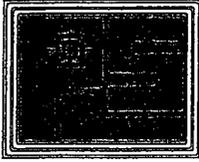
This instrument was acknowledged before me on the 30 day of January, ~~2011~~ 2012, by Mr. Ruben Luera Jr. and Matilde Luera

My Commission Expires:



David Mark Herrera  
Notary Public, State of Texas

CITY CLERK DEPT.  
2012 AUG - 7 PM 12:54



# PRECISION LAND SURVEYORS

10441 VALLE DE ORO DR.

El Paso, Texas 79927

Ph# (915) 222-5227

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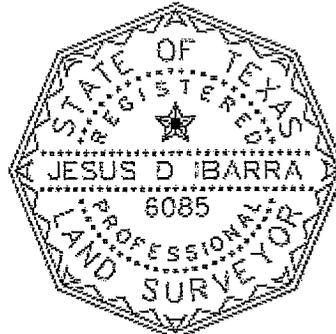
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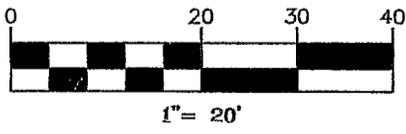
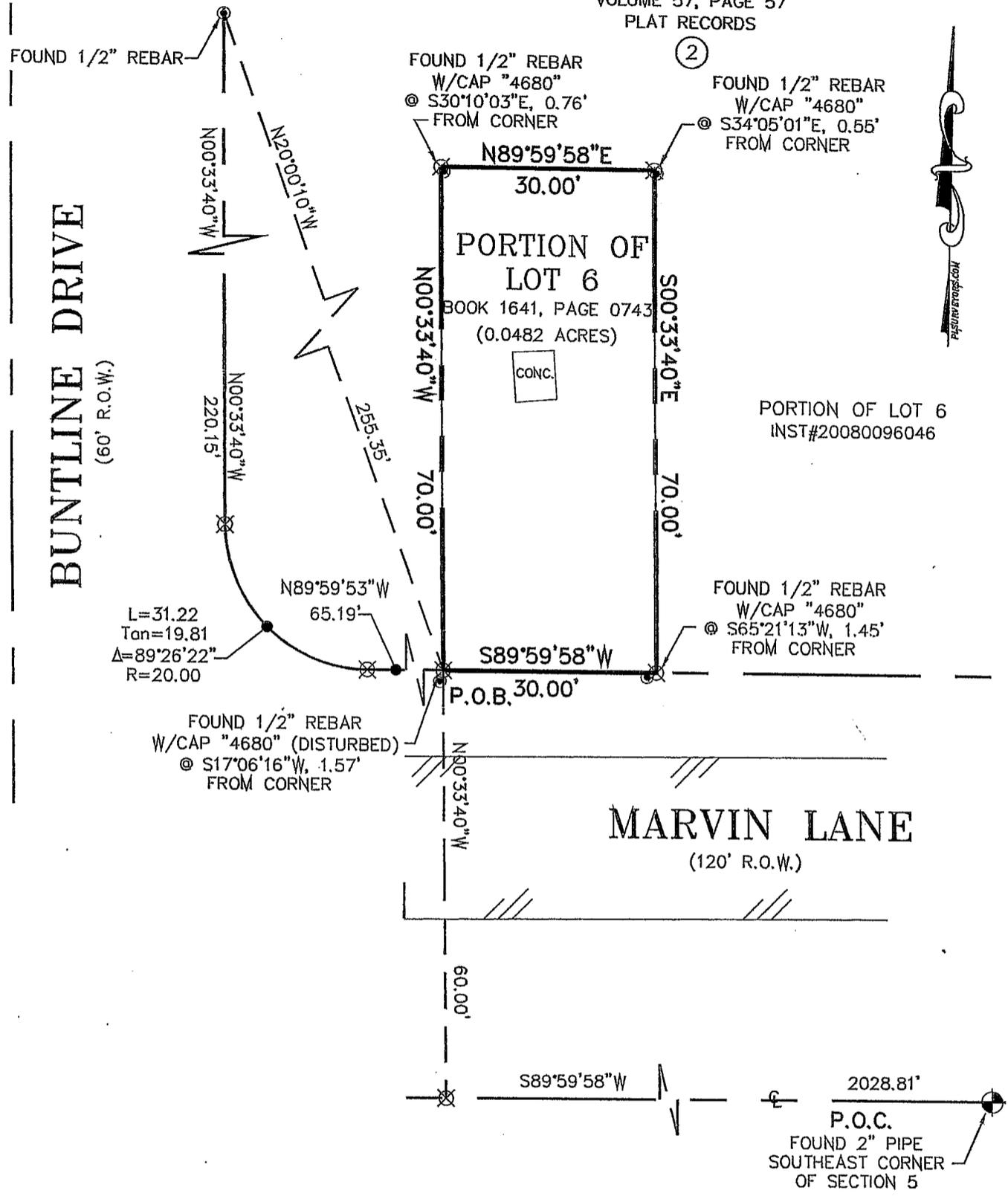
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\_\_\_\_\_  
Jesus D. Ibarra, RPLS No.6085



HOMESTEAD MEADOWS SOUTH  
UNIT 3, REPLAT "C"  
VOLUME 57, PAGE 57  
PLAT RECORDS



CERTIFICATION  
I HEREBY CERTIFY THAT THE FOREGOING BOUNDARY AND IMPROVEMENT SURVEY  
WAS MADE BY ME OR UNDER MY SUPERVISION AND THAT THERE ARE NO  
ENCROACHMENTS EXCEPT AS SHOWN. ONLY PLATTED EASEMENTS ARE SHOWN.

*J. D. Ibarra*  
JESUS D. IBARRA RPLS#6085

|                       |                                                                                                                    |                    |             |
|-----------------------|--------------------------------------------------------------------------------------------------------------------|--------------------|-------------|
| JOB # i1011-02        | DATE: October 19, 2011                                                                                             | FIELD: JII         | OFFICE: JDI |
| LOCATED IN ZONE X     | PANEL # 4802120175B                                                                                                | DATED 09/04/1991   |             |
| RECORDED IN VOLUME 57 | PAGE 57 ,PLAT RECORDS,                                                                                             | EL PASO COUNTY, TX |             |
|                       | BEING A PORTION OF LOT 6, BLOCK 2<br>HOMESTEAD MEADOWS SOUTH<br>UNIT 3, REPLAT "C"<br>CLINT, EL PASO COUNTY, TEXAS |                    |             |
|                       | PRECISION LAND SURVEYORS<br>10441 VALLE DE ORO DR.<br>EL PASO, TEXAS 79927<br>(915)222-5227 - (575)640-0474        |                    |             |

**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: \_\_\_\_\_, 2012

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

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

Grantee: Ruben Luera, Jr. and Matilde Luera

Grantee's Mailing Address (including county): 913 Navarrette Circle  
El Paso, Texas  
El Paso County, Texas 79907-2057

Consideration: TEN AND NO/100 DOLLARS (\$10.00) and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged and confessed.

Property:

Being a 0.0482 acre parcel of land consisting of a portion of Lot 7, Block 2, Homestead Meadows, Unit 3, Replat C, City of Clint, El Paso County, Texas, same portion described by Book 57, Page 57 in the El Paso County Deed Records and more particularly described by metes and bounds in Exhibit "A", attached hereto and incorporated herein by this reference for all purposes, hereinafter, the "Property".

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 or studies. Any remediation required of Grantee for or due to the transportation facility to be constructed on the Property 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 supply or sources of the City of El Paso.
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: provided, however that Grantor hereby waives any right of ingress and egress to the surface of the Property for the purpose of exploring, drilling, developing or producing same.

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.

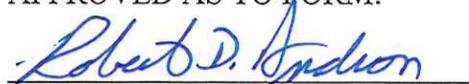
THE CITY OF EL PASO, TEXAS

\_\_\_\_\_  
Joyce A. Wilson, City Manager

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Assistant City Attorney

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Robert D. Andron, General Counsel

(Acknowledgements on following pages)

**ACKNOWLEDGEMENTS**

STATE OF TEXAS

COUNTY OF EL PASO

This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, 2012, by Joyce A. Wilson, the City Manager of the City of El Paso, Texas.

\_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Notary Public, State of Texas

CITY CLERK DEPT.  
2012 AUG -8 PM 2:07

COMMITMENT FOR TITLE INSURANCE

SCHEDULE D

GF No. 121581-SM

Effective Date: May 8, 2012, 5:00 pm

Pursuant to the requirements of Rule P-21, Basic Manual of Rules, Rates and Forms for the writing of Title Insurance in the State of Texas, the following disclosures are made:

1. The following individuals are directors and/or officers, as indicated, of the Title Insurance Company issuing this Commitment UNDERWRITER: North American Title Insurance Company

a. Shareholder(s)/Members owning or controlling, directly, ten percent or more of the shares of the Underwriter:

North American Title Insurance Company, a California corporation, is a wholly owned subsidiary of North American Asset Development Corporation, a California corporation, which is a wholly owned subsidiary of North American Title Group, Inc., a Florida corporation which is a wholly-owned subsidiary of Lennar Financial Services, Inc., a Florida corporation. Lennar Financial Services, Inc. is a wholly owned subsidiary of Lennar Corporation, a Delaware corporation, whose securities are publicly traded on the New York Stock Exchange.

b. Officers (with titles)/ Directors of the Underwriter:

- Emilio Fernandez, President, Director
Linda Reed, Executive Vice President, Director
Clotilde Keller, Senior Vice President, Assistant Secretary, Director
Jeffrey Wright, Chief Financial Officer, Senior Vice President, Assistant Secretary
Floyd Krause, Executive Vice President/Secretary
Jeffrey P. Brown, Executive Vice President, Secretary, General Counsel
Margery Q. Lee, Executive Vice President
Donnis L. Benson, Vice President, Treasurer
George H. Stablein, Vice President

2. The following disclosures are made by the Title Insurance Agent issuing this commitment pursuant to Rule P-21. Rio Bravo Title, LLC

Owners: First Fabens Bancorporation, Inc. (sole member).

Officers, Directors: Janette Coon- President
Executive Vice President: Frank Hernandez
Secretary: Rachel Samaniego

3. You are entitled to receive advance disclosure of settlement charges in connection with the proposed transaction to which this commitment relates. Upon your request, such disclosure will be made to you. Additionally, the name of any person, firm or corporation receiving a portion of the premium from the settlement of this transaction will be disclosed on the closing or settlement statement.

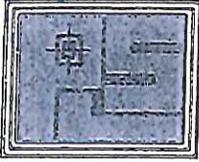
You are further advised that the estimated title premium\* is:

Table with 2 columns: Policy Type, Amount. Rows: Owner's Policy (\$229.00), Loan Policy (\$0.00), Endorsement Charges (\$0.00), Other (\$0.00), Total (\$229.00)

Of this total amount: 15% will be paid to the policy issuing Title Insurance Company; 85% will be retained by the issuing Title Insurance Agent; and the remainder of the estimated premium will be paid to other parties as follows:

Amount To Whom For Services

\*The estimated premium is based upon information furnished to us as of the date of this Commitment for Title Insurance. Final determination of the amount of the premium will be made at closing in accordance with the Rules and Regulations adopted by the Commissioner of Insurance.



# PRECISION LAND SURVEYORS

10441 VALLE DE ORO DR.  
El Paso, Texas 79927  
Ph# (915) 222-5227

Being a 2,100 sq. ft. 0.0482 acre portion of  
Lot 6, Block 2, Homestead Meadows Unit 3, Replat C,  
City of Clint, El Paso County, Texas,  
October 19, 2011

## METES AND BOUNDS DESCRIPTION

Description of a parcel of land being a portion of Lot 6, Block 2, Homestead Meadows Unit 3, Replat C, City of Clint, El Paso County, Texas, same portion described by Book 1641, Page 0743 in the El Paso County Deed Records and being more particularly described by metes and bounds as follows:

Commencing for reference at a found 2" pipe held for the southeast corner of Section 5, Block 78, Township 2, Texas & Pacific Railway Company Survey, thence South 89°59'58" West along the center line of Marvin Lane (120.00 foot R.O.W.) a distance of 2,028.81 feet, thence North 00°33'40" West a distance of 60.00 feet to a point from which a found ½" rebar with cap "4680" bears South 17°06'16" West 1.57 feet and from which a found ½" rebar at the northwest corner of said Lot 6 bears North 20°00'10" West 255.35 feet, said point also being the "TRUE POINT OF BEGINNING".

Thence leaving said right of way line thence, North 00°33'40" West a distance of 70.00 feet to a point from which a found ½" rebar with cap "4680" bears South 30°10'03" East 0.76 feet;

Thence, North 89°59'58" East a distance of 30.00 feet to a point from which a found ½" rebar with cap "4680" bears South 34°05'01" East 0.55 feet;

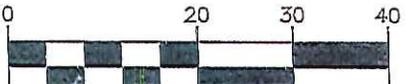
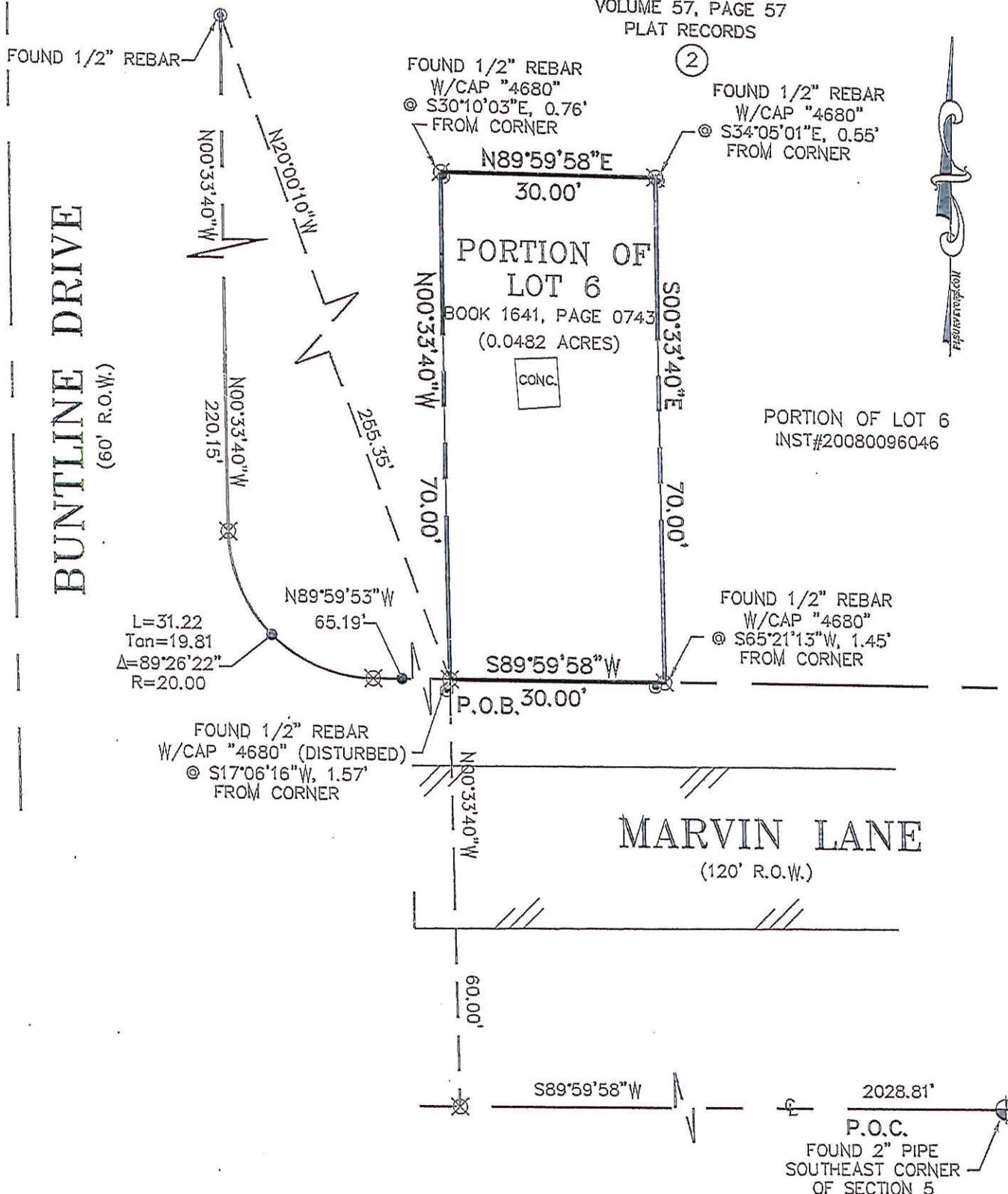
Thence, South 00°33'40" East a distance of 70.00 feet to a point at the southwesterly right of way line of Marvin Lane from which a found ½" rebar with cap "4680" bears South 65°21'13" West 1.45 feet;

Thence with said right of way line, South 89°59'58" West a distance of 30.00 feet to "TRUE POINT OF BEGINNING" and containing in all a 2,100 sq. ft. 0.0482 acre of land more or less. ;

  
Jesus D. Ibarra, RPLS No. 6085



HOMESTEAD MEADOWS SOUTH  
UNIT 3, REPLAT "C"  
VOLUME 57, PAGE 57  
PLAT RECORDS



CERTIFICATION

I HEREBY CERTIFY THAT THE FOREGOING BOUNDARY AND IMPROVEMENT SURVEY WAS MADE BY ME OR UNDER MY SUPERVISION AND THAT THERE ARE NO ENCROACHMENTS EXCEPT AS SHOWN. ONLY PLATTED EASEMENTS ARE SHOWN

THE FOLLOWING COMMITMENT FOR TITLE INSURANCE IS NOT VALID UNLESS YOUR NAME AND THE POLICY AMOUNT SHOWN IN SCHEDULE A, AND OUR AUTHORIZED REPRESENTATIVE HAS COUNTERSIGNED BELOW.

COMMITMENT FOR TITLE INSURANCE  
ISSUED BY



We, North American Title Insurance Company, a California corporation, will issue our title insurance policy or policies (the Policy) to You (the proposed Insured) upon payment of the premium and other charges due, and compliance with the requirements in Schedule B and Schedule C. Our Policy will be the form approved by the Texas Department of Insurance at the date of issuance, and will insure your interest in the land described in Schedule A. The estimated premium for our policy and applicable endorsements is shown on Schedule D. There may be additional charges such as recording fees, and expedited delivery expenses.

This Commitment ends ninety (90) days from the effective date, unless the Policy is issued sooner, or failure to issue the Policy is our fault. Our liability and obligations to you are under the express terms of this Commitment and end when this Commitment expires.

IN WITNESS WHEREOF, North American Title Insurance Company has caused its corporate name and seal to be hereunto affixed by its duly authorized officers, the Commitment to become valid when countersigned by an authorized officer or agent of the Company.

North American Title Insurance Company

Attest:

Jeffrey P. Brown, Secretary



By:

Emilio Fernandez, President

  
(Authorized Signature)

CONDITIONS AND STIPULATIONS

1. If you have actual knowledge of any matter which may affect the title or mortgage covered by this Commitment, that is not shown in Schedule B, you must notify us in writing. If you do not notify us in writing, our liability to you is ended or reduced to the extent that your failure to notify us affects our liability. If you do notify us, or we learn of such matter, we may amend Schedule B, but we will not be relieved of liability already incurred.
2. Our liability is only to you, and others who are included in the definition of Insured in the Policy to be issued. Our liability is only for actual loss incurred in your reliance on this Commitment to comply with its requirements, or to acquire the interest in the land. Our liability is limited to the amount shown in Schedule A of this Commitment and will be subject to the following terms of the Policy: Insuring Provisions, Conditions and Stipulations, and Exclusions.

(THIS COMMITMENT IS INVALID UNLESS SCHEDULES A, B, C AND D ARE ATTACHED HERETO.)

## TEXAS TITLE INSURANCE INFORMATION

Title Insurance insures you against loss resulting from certain risks to your title.

The Commitment for Title Insurance is the title insurance company's promise to issue the title insurance policy. The commitment is a legal document. You should review it carefully to completely understand it before your closing date.

El seguro de título le asegura en relación a pérdidas resultantes de ciertos riesgos que pueden afectar el título de su propiedad.

El Compromiso para Seguro de Título es la promesa de la compañía de aseguradora de títulos de emitir la póliza de seguro de título. El Compromiso es un documento legal. Usted debe leerlo cuidadosamente y entenderlo completamente antes de la fecha para finalizar su transacción.

Your Commitment for Title Insurance is a legal contract between you and us. The Commitment is not an opinion or report of your title. It is a contract to issue you a policy subject to the Commitment's terms and requirements.

Before issuing a Commitment for Title Insurance (the Commitment) or a Title Insurance Policy (the Policy), the Title Insurance Company (the Company) determines whether the title is insurable. This determination has already been made. Part of that determination involves the Company's decision to insure the title except for certain risks that will not be covered by the Policy. Some of these risks are listed in Schedule B of the attached Commitment as Exceptions. Other risks are stated in the Policy as Exclusions. These risks will not be covered by the Policy. The Policy is not an abstract of title nor does a Company have an obligation to determine the ownership of any mineral interest.

MINERALS AND MINERAL RIGHTS may not be covered by the Policy. The Company may be unwilling to insure title unless there is an exclusion or an exception as to Mineral and Mineral Rights in the Policy. Optional endorsements insuring certain risks involving minerals, and the use of improvements (excluding lawns, shrubbery and trees) and permanent buildings may be available for purchase. If the title insurer issues the title policy with an exclusion or exception to the minerals and mineral rights, neither this Policy, nor the optional endorsements, ensure that the purchaser has title to the mineral rights related to the surface estate.

Another part of the determination involves whether the promise to insure is conditioned upon certain requirements being met. Schedule C of the Commitment lists these requirements that must be satisfied or the Company will refuse to cover them. You may want to discuss any matters shown on Schedules B and C of the Commitment with an attorney. These matters will affect your title and your use of the land.

When your Policy is issued, the coverage will be limited by the Policy's Exceptions, Exclusions and Conditions, defined below.

- **EXCEPTIONS** are title risks that a Policy generally covers but does not cover in a particular instance. Exceptions are shown on Schedule B or discussed in Schedule C of the Commitment. They can also be added if you do not comply with the Conditions section of the Commitment. When the Policy is issued, all Exceptions will be on Schedule B of the Policy.
- **EXCLUSIONS** are title risks that a Policy generally does not cover. Exclusions are contained in the Policy but not shown or discussed in the Commitment.
- **CONDITIONS** are additional provisions that qualify or limit your coverage. Conditions include your responsibilities and those of the Company. They are contained in the Policy but not shown or discussed in the Commitment. The Policy Conditions are not the same as the Commitment Conditions.

You can get a copy of the policy form approved by the State Board of Insurance by calling North American Title Insurance Company at 1-800-869-3434 (Western States) or 1-800-374-8475 (Eastern States) or by calling the title insurance agent that issued the Commitment. The Texas Department of Insurance may revise the policy form from time to time.

You can also get a brochure that explains the policy from the Texas Department of Insurance by calling 1-800-262-3439.

Before the Policy is issued, you may request changes in the Policy. Some of the changes to consider are:

Request amendment of the "area and boundary" exception (Schedule B, paragraph 2). To get this amendment, you must furnish a survey and comply with other requirements of the Company. On the Owner Policy, you must pay an additional premium for the amendment. If the survey is acceptable to the Company and if the Company's other requirements are met, your Policy will insure you against loss because of discrepancies or conflicts in boundary lines, encroachments or protrusions, or overlapping of improvements. The Company may then decide not to insure against specific boundary or survey problems by making special exceptions in the Policy. Whether or not you request amendment of the "area and boundary" exception, you should determine whether you want to purchase and review a survey if a survey is not being provided to you.

Allow the Company to add an exception to "rights of parties in possession". If you refuse this exception, the Company or the title insurance agent may inspect the property. The Company may except to and not insure you against the rights of specific persons, such as renters, adverse owners or easement holders who occupy the land. The Company may charge you for the inspection. If you want to make your own inspection, you must sign a Waiver of Inspection form and allow the Company to add this exception to your Policy.

The entire premium for a Policy must be paid when the Policy is issued. You will not owe any additional premiums unless you want to increase your coverage at a later date and the Company agrees to add an Increased Value Endorsement.

#### IMPORTANT NOTICE

FOR INFORMATION, OR TO MAKE A COMPLAINT, CALL OUR TOLL-FREE TELEPHONE NUMBER 1-800-374-8475 (TEXAS AND EASTERN STATES) OR 1-800-869-3434 (WESTERN STATES).

ALSO YOU MAY CONTACT THE TEXAS DEPARTMENT OF INSURANCE AT 1-800-252-3439 to obtain information on:

1. filing a complaint against an insurance company or agent,
2. whether an insurance company or agent is licensed,
3. complaints received against an insurance company or agent,
4. policyholder rights, and
5. a list of consumer publications and services available through the Department.

YOU MAY ALSO WRITE TO THE  
TEXAS DEPARTMENT OF INSURANCE  
P.O. Box 149104  
Austin, Texas 78714-9104  
Fax: (512) 475-1771  
Web: <http://www.tdi.state.tx.us>  
E-mail: [ConsumerProtection@tdi.state.tx.us](mailto:ConsumerProtection@tdi.state.tx.us)

#### AVISO IMPORTANTE

PARA INFORMACIÓN, O PARA SOMETER UNA QUEJA LLAME AL NÚMERO GRATIS 1-800-374-8475 (TEXAS AND EASTERN STATES) OR 1-800-869-3434 (WESTERN STATES).

TAMBIÉN PUEDE COMUNICARSE CON EL DEPARTAMENTO DE SEGUROS DE TEXAS AL 1-800-252-3439 para obtener información sobre:

1. como someter una queja en contra de una compañía de seguros o agentes de seguros,
2. si una compañía de seguros o agente de seguros tiene licencia,
3. quejas recibidas en contra de una compañía de seguros o agentes de seguros,
4. los derechos del asegurado, y
5. una lista de publicaciones y servicios para consumidores disponibles a través del Departamento.

TAMBIÉN PUEDE ESCRIBIR AL  
DEPARTAMENTO DE SEGUROS DE TEXAS  
P.O. Box 149104  
Austin, Texas 78714-9104  
Fax: (512) 475-1771  
Web: <http://www.tdi.state.tx.us>  
E-mail: [ConsumerProtection@tdi.state.tx.us](mailto:ConsumerProtection@tdi.state.tx.us)



1855 Gateway Boulevard, Suite 600  
Concord, California 94520

COMMITMENT FOR TITLE INSURANCE

Issued By

*North American Title Insurance Company*

SCHEDULE A

Effective Date: May 8, 2012, 5:00 pm

GF No. 121581-SM

Commitment No. \_\_\_\_\_, issued May 25, 2012,

1. The policy or policies to be issued are:

(a) OWNER'S POLICY OF TITLE INSURANCE (Form T-1)  
(Not applicable for improved one-to-four family residential real estate)  
Policy Amount:  
PROPOSED INSURED:

(b) TEXAS RESIDENTIAL OWNER'S POLICY OF TITLE INSURANCE  
- ONE-TO-FOUR FAMILY RESIDENCES (Form T-1R)  
Policy Amount:  
PROPOSED INSURED: Ruben Luera, Jr. and Matilde Luera

(c) LOAN POLICY OF TITLE INSURANCE (Form T-2)  
Policy Amount:  
PROPOSED INSURED:  
Proposed Borrower:

(d) TEXAS SHORT FORM RESIDENTIAL LOAN POLICY OF TITLE INSURANCE (Form T-2R)  
Policy Amount:  
PROPOSED INSURED:  
Proposed Borrower:

(e) LOAN TITLE POLICY BINDER ON INTERIM CONSTRUCTION LOAN (Form T-13)  
Binder Amount:  
PROPOSED INSURED:  
Proposed Borrower:

(f) OTHER  
Policy Amount:  
PROPOSED INSURED:

2. The interest in the land covered by this Commitment is: Fee Simple

3. Record title to the land on the Effective Date appears to be vested in:  
EL PASO WATER UTILITIES PUBLIC SERVICES BOARD

4. Legal description of the land:  
A portion of Lot 6, Block 2, HOMESTEAD MEADOWS SOUTH UNIT 3, REPLAT "C", an addition to El Paso County, Texas, according to the plat thereof on file in Volume 57, Page 57, Real Property Records, El Paso County, Texas, said portion being more particularly described by metes and bounds in Exhibit "A" attached hereto and made a part hereof.

EXHIBIT A

SURVEYOR'S DESCRIPTION

A parcel of land being within Lot 06, Block 2 of HOMESTEAD MEADOWS SOUTH UNIT 3, REPLAY "C", El Paso County, Texas and being more particularly described by a metes and bounds description as follows:

BEGINNING at the SE corner pipe of Section 5, Block 78, Township 2, T & P RR Survey, El Paso County, Texas, thence S 89 degrees 59 min. 58 sec. W along the centerline of Marvin Lane a distance of 2,028.81 feet, thence N 00 degrees 33 min. 40 sec. W a distance of 60.00 feet to a # 4 rebar in the SW corner and the point of beginning of this parcel,

THENCE N 00 degrees 33 min 40 sec W a distance of 70.00 feet to a # 4 rebar in the NW corner of this parcel.

THENCE N 89 degrees 59 min 58 sec E a distance of 30.00 feet to a #4 rebar in the NE corner of this parcel.

THENCE S 00 degrees 33 min. 40 sec. E a distance of 70.00 feet to a #4 rebar in the SE corner of this parcel.

THENCE S 89 degrees 59 min 58 sec W along the N'y R.O.W. of said Marvin Lane a distance of 30.00 feet to the said # 4 rebar in the SW corner and the point of beginning of this parcel.

Said parcel contains 0.048 acres more or less.

Said Lot is subject to easements and restrictions as shown on the subdivision plat.

  
-----  
John C Drissel PE & LS  
12-19-85

MUDWA.106

EXHIBIT 1A1

COMMITMENT FOR TITLE INSURANCE

Issued By

*North American Title Insurance Company*

SCHEDULE B

EXCEPTIONS FROM COVERAGE

In addition to the Exclusions and Conditions and Stipulations, your Policy will not cover loss, costs, attorneys' fees, and expenses resulting from:

1. The following restrictive covenants of record itemized below (We must either insert specific recording data or delete this exception):

Restrictive Covenants recorded in/under Volume 1313, Page 1491 and Volume 1156, Page 547, Real Property Records of El Paso County, Texas but omitting any covenant or restriction based on race, color, religion, sex, handicap, familial status, or national origin.

2. Any discrepancies, conflicts, or shortages in area or boundary lines, or any encroachments or protrusions, or any overlapping of improvements.
3. Homestead or community property or survivorship rights, if any, of any spouse of any insured. (Applies to the Owner's Policy only.)
4. Any titles or rights asserted by anyone, including, but not limited to, persons, the public, corporations, governments or other entities,
  - a. to tidelands, or lands comprising the shores or beds of navigable or perennial rivers and streams, lakes, bays, gulfs or oceans, or
  - b. to lands beyond the line of harbor or bulkhead lines as established or changed by any government, or
  - c. to filled-in lands, or artificial islands, or
  - d. to statutory water rights, including riparian rights, or
  - e. to the area extending from the line of mean low tide to the line of vegetation, or the rights of access to that area or easement along and across that area.

(Applies to the Owner's Policy only.)

5. Standby fees, taxes and assessments by any taxing authority for the year 2012, and subsequent years; and subsequent taxes and assessments by any taxing authority for prior years due to change in land usage or ownership, but not those taxes or assessments for prior years because of an exemption granted to a previous owner of the property under Section 11.13, *Texas Tax Code*, or because of improvements not assessed for a previous tax year. (If Texas Short Form Residential Loan Policy (T-2R) is issued, that policy will substitute "which become due and payable subsequent to Date of Policy" in lieu of "for the year \_\_\_\_ and subsequent years.")
6. The terms and conditions of the documents creating your interest in the land.
7. Materials furnished or labor performed in connection with planned construction before signing and delivering the lien document described in Schedule A, if the land is part of the homestead of the owner. (Applies to the Loan Title Policy Binder on Interim Construction Loan only, and may be deleted if satisfactory evidence is furnished to us before a binder is issued.)
8. Liens and leases that affect the title to the land, but that are subordinate to the lien of the insured mortgage. (Applies to Loan Policy (T-2) only.)

9. The Exceptions from Coverage and Express Insurance in Schedule B of the Texas Short Form Residential Loan Policy (T-2R). (Applies to Texas Short Form Residential Loan Policy (T-2R) only. Separate exceptions 1 through 8 of this Schedule B do not apply to the Texas Short Form Residential Loan Policy (T-2R).

10. The following matters and all terms of the documents creating or offering evidence of the matters (We must insert matters or delete this exception.):

a. Rights of parties in possession. (Owners Title Policy)

b. Any and all claims of right, title and interest to the land, including but not limited to any right of possession or claim for damages relating to the land which has been asserted or may be asserted, of record or not, by or on behalf of any Indian or Indian Tribe, including but not limited to the Tigua Indian Tribe of El Paso, Texas, also known as Pueblo De La Ysleta del Sur, also known as the Ysleta del Sur Pueblo Indian Tribe, also known as the Tigua Indian Community, including but not limited to claims appearing in Affidavit of Julian Granillo, filed for record April 16, 1993, recorded in Volume 2553, Page 1958, Real Property Records of El Paso County, Texas.

Company insures the Insured against loss, if any, sustained by the Insured under the terms of this Policy by reason of the enforcement of said rights as to the land. Company agrees to provide defense to the Insured in accordance with the terms of this Policy if suit is brought against the Insured to enforce said rights as to the land.

c. OWNER POLICY:

Any and all liens arising by reason of unpaid bills or claims for work performed or materials furnished in connection with improvements placed, or to be placed, upon the subject land. However, the Company does insure the Insured against loss, if any, sustained by the Insured under this policy if such liens have been filed with the County Clerk of El Paso County, Texas, prior to the date hereof.

Liability hereunder at the date hereof is limited to \$\_\_\_\_\_. Liability shall increase as contemplated improvements are made, so that any loss payable hereunder shall be limited to said sum plus the amount actually expended by the Insured as improvements at the time the loss occurs. Any expenditures made for improvements, subsequent to the date of this policy, will be deemed made as of the date of this policy. In no event shall the liability of the Company hereunder exceed the face amount of this policy. Nothing contained in this paragraph shall be construed as limiting any exception or any printed provision of this policy.

(OWNER POLICY ONLY)

(EXCEPTION MAY BE DELETED IF PROPOSED TRANSACTION DOES NOT INCLUDE COST OF CONTEMPLATED IMPROVEMENTS, CONSTRUCTION OR REPAIRS.)

d. LOAN POLICY

Any and all liens arising by reason of unpaid bills or claims for work performed or materials furnished in connection with improvements placed, or to be placed, upon the subject land. However, the Company does insure the Insured against loss, if any, sustained by the Insured under this Policy if such liens have been filed with the County Clerk of El Paso County, Texas, prior to the date hereof.

Pending disbursement of the full proceeds of the loan secured by the lien instrument set forth under Schedule A hereof, this policy insures only to the extent of the amount actually disbursed, but increases as each disbursement is made in good faith and without knowledge of any defects in, or objections to, the title up to the face amount of the policy. Nothing contained in this paragraph shall be construed as limiting any exception under Schedule B, or any printed provision of this policy.

(LOAN POLICY ONLY)

(EXCEPTION MAY BE DELETED IF PROPOSED TRANSACTION DOES NOT INCLUDE COST OF CONTEMPLATED IMPROVEMENTS, CONSTRUCTION OR REPAIRS AND LOAN PROCEEDS ARE FULLY DISBURSED).

- e. Any encroachment, encumbrance, violation, or adverse circumstance affecting the title that would be disclosed by an accurate and complete land survey of the land.  
(NOTE: UPON RECEIPT OF A SURVEY ACCEPTABLE TO COMPANY, THIS EXCEPTION WILL BE DELETED. COMPANY RESERVES THE RIGHT TO ADD ADDITIONAL EXCEPTIONS PER ITS EXAMINATION OF SAID SURVEY.)
- f. Matters set forth on the subdivision plat, including but not limited to building set back lines, easements for public utilities, and easements for buried service wires, conduits, etc., with the right to ingress and egress for service, shown on the recorded plat of said addition in Volume 57, Page 57, Real Property Records, El Paso County, Texas. Said easements being 5 feet in width across the westerly property line of subject property.
- g. Title to all oil, gas and minerals of every kind and character in, on and under the insured premises, together with all rights, privileges and immunities relating thereto, heretofore reserved, or conveyed by predecessors in title to T&P LAND TRUST in Volume 958, Page 1640, transferred to TXL OIL CORPORATION in Volume 1212, Page 143; and transferred to TEXACO, INC. in Volume 1667, Page 261, Real Property Records, El Paso County, Texas.
- h. All terms, conditions and provisions expressly noted and set out on plat of this subdivision, as filed in Volume 57, Page 57, Real Property Records, El Paso County, Texas.
- i. Possible Sanitary Easement as shown on survey dated March 12, 1992 by JOHN P. GAMERSFELDER and attached to Warranty Deed dated January 23, 1994, in Volume 2708, Page 969, Real Property Records, El Paso County, Texas.

COMMITMENT FOR TITLE INSURANCE

Issued By

*North American Title Insurance Company*

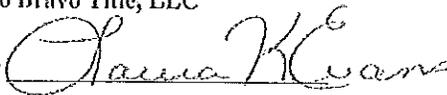
SCHEDULE C

Your Policy will not cover loss, costs, attorneys' fees, and expenses resulting from the following requirements that will appear as Exceptions in Schedule B of the Policy, unless you dispose of these matters to our satisfaction, before the date the Policy is issued:

1. Documents creating your title or interest must be approved by us and must be signed, notarized and filed for record.
2. Satisfactory evidence must be provided that:
  - a. no person occupying the land claims any interest in that land against the persons named in paragraph 3 of Schedule A,
  - b. all standby fees, taxes, assessments and charges against the property have been paid,
  - c. all improvements or repairs to the property are completed and accepted by the owner, and that all contractors, subcontractors, laborers and suppliers have been fully paid, and that no mechanic's, laborer's or materialmen's liens have attached to the property,
  - d. there is legal right of access to and from the land,
  - e. (on a Loan Policy only) restrictions have not been and will not be violated that affect the validity and priority of the insured mortgage.
3. You must pay the seller or borrower the agreed amount for your property or interest.
4. Any defect, lien or other matter that may affect title to the land or interest insured, that arises or is filed after the effective date of this Commitment.
5. **NOTE:** The title insurance policy being issued to you contains an arbitration provision. It allows you or the Company to require arbitration if the amount of insurance is \$2,000,000.00 or less. If you want to retain your right to sue the Company in case of a dispute over a claim, you must request deletion of the arbitration provision **BEFORE** the policy is issued. If you are the purchaser in the transaction and elect deletion of the arbitration provision, a form will be presented to you at closing for execution. If you are the lender in the transaction and desire deletion of the arbitration provision, please inform us through your Loan Closing Instructions. (Not applicable to the Texas Residential Owner Policy)
6. Insofar as homestead may be involved, the amount insured is limited to purchase money paid, or the amount advanced for renewal of existing valid liens, and for improvements actually constructed on said land and secured by a recorded Mechanic's Lien. If this property is not the homestead of the borrower, we will require an affidavit designating their homestead at closing.
7. **Note:** If this property constitutes any part of homestead, we will require the joinder of the spouse, if any, on the closing documents.
8. **NOTE:** Please be advised if a partnership, joint venture, trust, or a corporation is involved in this transaction, either as a seller, purchaser or borrower, we will require for our review prior to closing, copies of the partnership agreement, joint venture agreement, trust agreement, or corporate resolution authorizing the transaction, and evidence that the corporation is in good standing to authorize the insured transaction.
9. We must be in receipt of a tax certificate indicating all taxes paid through the year preceding the current year as shown on Schedule B, prior to closing.

10. The Earnest Money Contract you entered into to purchase the land, may provide that the standard title policy contains an exception as to discrepancies, conflicts, shortages in area or boundary lines, encroachments or protrusions, or overlapping improvements, and that Buyer, at Buyer's expense, may have the exception amended to read, "shortages in area", thereby giving you coverage for those matters. Your TI-R Owner Policy of Title Insurance will contain this coverage and you will be charged the additional premium of 5% of the basic rate unless on or before the date of closing you advise the company in writing that you reject this coverage.
11. NOTE: Copies of the title exceptions shown on Schedule B of this commitment are available. To obtain copies of these exceptions contact our Copy Center at (915) 779-0500, please be sure to state our file number 121581-SM.

Countersigned  
Rio Bravo Title, LLC

By 

**DELETION OF ARBITRATION PROVISION**  
(Not applicable to the Texas Residential Owner's Policy)

Arbitration is a common form of alternative dispute resolution. It can be a quicker and cheaper means to settle a dispute with your Title Insurance Company. However, if you agree to arbitrate, you give up your right to take the Title Company to court and your rights to discovery of evidence may be limited in the arbitration process. In addition, you cannot usually appeal an arbitrator's award.

Your policy contains an arbitration provision (shown below). It allows you or the Company to require arbitration if the amount of insurance is \$2,000,000 or less. If you want to retain your right to sue the Company in case of a dispute over a claim, you must request deletion of the arbitration provision before the policy is issued. You can do this by signing this form and returning it to the Company at or before the closing of your real estate transaction or by writing to the Company.

The arbitration provision in the Policy is as follows:

"Either the Company or the Insured may demand that the claim or controversy shall be submitted to arbitration pursuant to the Title Insurance Arbitration Rules of the American Land Title Association ("Rules"). Except as provided in the Rules, there shall be no joinder or consolidation with claims or controversies of other persons. Arbitrable matters may include, but are not limited to, any controversy or claim between the Company and the Insured arising out of or relating to this policy, any service in connection with its issuance or the breach of a policy provision, or to any other controversy or claim arising out of the transaction giving rise to this policy. All arbitrable matters when the Amount of Insurance is \$2,000,000 or less shall be arbitrated at the option of either the Company or the Insured, unless the Insured is an individual person (as distinguished from an Entity). All arbitrable matters when the Amount of Insurance is in excess of \$2,000,000 shall be arbitrated only when agreed to by both the Company and the Insured. Arbitration pursuant to this policy and under the Rules shall be binding upon the parties. Judgment upon the award rendered by the Arbitrator(s) may be entered in any court of competent jurisdiction."

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE

# NORTH AMERICAN TITLE GROUP FAMILY OF COMPANIES

## Privacy Policy Notice (2/01/08)

We at the North American Title Group family of companies take your privacy very seriously. This Notice is being given on behalf of each of the companies listed below (the "North American Title Companies"), as well as on behalf of North American Advantage Insurance Services, LLC. It explains our policy regarding the personal information of our customers and our former customers.

### OUR PRIVACY POLICIES AND PRACTICES

#### The North American Title Companies

1. **Information North American Title Companies collect, and the sources from which we collect it:** On forms related to your real estate transaction, North American Title Companies collect personal information that you, our affiliates or third parties have provided to us, such as, for example, your name, address, and sale price of your home. All of the information that we collect is referred to in this notice as "NAT Collected Information".
  
2. **What information North American Title Companies disclose to our affiliates:** From time to time, as permitted by law, the North American Title Companies may share NAT Collected Information with each other and with North American Advantage Insurance Services, LLC ("NAAIS") about customers and former customers. You may ask us not to share NAT Collected Information among the North American Title Companies and NAAIS by writing to us and letting us know at: North American Title Group, Inc., Attention: Corporate Affairs, 700 NW 107<sup>th</sup> Avenue, Suite 300, Miami, FL 33172. Your request will not affect NAT Collected Information that the North American Title Companies are otherwise permitted by law to share, such as, in certain circumstances, NAT Collected Information related to our experiences and transactions with you.
  
3. **What information North American Title Companies disclose to third parties:**
  - If permitted by federal law and the law of your state, we may disclose some or all of the following information to companies that perform marketing services on our behalf and to certain unaffiliated insurance companies with whom we have joint marketing agreements: your name, current address, purchased property address, and closing date.
  
  - We also may share NAT Collected Information about customers and former customers with other unaffiliated third parties, as permitted by law. For example, NAT Collected Information may be shared in certain circumstances (A) with companies involved in servicing or processing your account (B) with insurance regulatory authorities, and (C) with law enforcement officials, to protect against fraud or other crimes.
  
4. **Your right to access your personal information:** You have the right to review your personal information that we have on record about you. If you wish to review that information, please contact the local North American Title Company office identified on the title insurance product to which this notice is attached or where you received this notice and give us a reasonable time to make that information available to you. If you believe any information is incorrect, notify us, and if we agree, we will correct it. If we disagree, we will advise you in writing why we disagree.

North American Advantage Insurance Services, LLC

1. **Information North American Advantage Insurance Services, LLC ("NAAIS") collect and sources from which we collect it:** NAAIS collects personal information about you from you, our affiliates, or third parties on forms related to your transaction with NAAIS or a North American Title Company, such as your name, address, or information about the property that is or will be insured. We also receive information from companies, which compile and distribute public records. All of the information that NAAIS collects, as described in this paragraph, is referred to in this notice as "NAAIS Collected Information."

2. **Information NAAIS may disclose to its affiliates or third parties:** NAAIS may disclose NAAIS Collected Information about you or others without your permission as permitted or required by law, including to the following types of institutions for the reasons described:

- To a third party or an affiliate if the disclosure will enable that party to perform a business, professional or insurance function for us in connection with an insurance transaction involving you.
- To an insurance institution, agent, or credit reporting agency in order to detect or prevent criminal activity, fraud or misrepresentation in connection with an insurance transaction.
- To an insurance institution, agent, or credit reporting agency for either this agency or the entity to whom we disclose the information to perform a function in connection with an insurance transaction involving you.
- To an insurance regulatory authority, law enforcement, or other governmental authority in order to protect our interests in preventing or prosecuting fraud, or if we believe that you have conducted illegal activities.

3. **Your right to access and amend your personal information:** You have the right to request access to the personal information that we record about you. Your right includes the right to know the source of the information and the identity of the persons, institutions or types of institutions to whom we have disclosed such information within two (2) years prior to your request. Your right includes the right to view such information and copy it in person, or request that a copy of it be sent to you by mail (for which we may charge you a reasonable fee to cover our costs). Your right also includes the right to request corrections, amendments or deletions of any information in our possession. The procedures that you must follow to request access to or an amendment of your information are as follows:

To obtain access to your information: You should submit a request in writing to: North American Title Group, Inc., Attention: Corporate Affairs, 700 NW 107<sup>th</sup> Avenue, Suite 300, Miami, FL 33172. The request should include your name, address, social security number, telephone number, and the recorded information to which you would like access. The request should state whether you would like access in person or a copy of the information sent to you by mail. Upon receipt of your request, we will contact you within 30 business days to arrange providing you with access in person or the copies that you have requested.

To correct, amend, or delete any of your information: You should submit a request in writing to: North American Title Group, Inc., Attention: Corporate Affairs, 700 NW 107<sup>th</sup> Avenue, Suite 300, Miami, FL 33172. The request should include your name, address, social security number, telephone number, the specific information in dispute, and the identity of the document or record that contains the disputed information. Upon receipt of your request, we will contact you within 30 business days to notify you either that we have made the correction, amendment or deletion, or that we refuse to do so and the reasons for the refusal, which you will have an opportunity to challenge.

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## SECURITY PROCEDURES

We restrict access to NAT Collected Information and NAAIS Collected Information about you to individuals who need to know such information in order to you with your product or service. We maintain physical, electronic and procedural safeguards to protect NAT Collected Information and NAAIS Collected Information about you.

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## CHANGES TO OUR PRIVACY POLICY

This Notice reflects our privacy policy as of February 1, 2008. We reserve the right to change, modify or amend this policy at any time. Please check our Privacy Policy periodically for changes.

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The North American Title Group Family of Companies are: North American Title Company, North American Title Insurance Company, North American Title Alliance, LLC, North American Title Florida Alliance, LLC, North American Services, LLC, North American Exchange Company, North American Title Agency, North American Abstract Agency and North American Legal Services, L.L.C.

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## ACKNOWLEDGEMENT

Your receipt of a copy of the preliminary report, commitment, your policy of insurance, or escrow documents accompanied by this Notice will constitute your acknowledgment of receipt of this Privacy Policy Notice.