

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

DEPARTMENT: Airport
AGENDA DATE: August 29, 2006
CONTACT PERSON/PHONE: Jose Quiñonez /771-6016
DISTRICT(S) AFFECTED: Citywide (1-8)

SUBJECT:

Consent Agenda Item of August 29 2006 - FTZ Manufacturing Operator Agreement in Foreign Trade Zone No. 68.

BACKGROUND / DISCUSSION:

This agreement is to allow the City Manager on behalf of the City of El Paso as Grantee of Foreign-Trade Zone No. 68 (FTZ No. 68) to sign a FTZ Manufacturing Operator Agreement with Electrolux Home Care Products Ltd. This agreement is needed to allow Electrolux to derive the same benefits of an FTZ Operator such as the direct delivery procedure which exist in other US foreign-trade zones and as permitted by US Customs and Border Protection. Electrolux's FTZ activities shall be limited in scope to only those of an FTZ operator within its premises. Electrolux's manufacturing operations include production, assembly, testing, cleaning, packaging and packig of vacuum cleaners and mega-packs from imported and domestic parts and components. Electrolux will be required to execute a Customs Bond as required by federal regulation. FTZ No. 68 staff as Grantee will provide regulatory oversight and charge transaction fees to Electrolux's FTZ operations. This is the first FTZ manufacturing project for El Paso, providing Electrolux with operational savings through reduced Customs duties and fees, and streamlined logistics. Electrolux will also retain about 300 employees at its facilities in El Paso. The Department of Aviation recommends to Mayor and Council to authorize the signing of this manufacturing operator agreement in FTZ No. 68.

EPIA staff located at the International Trade Processing Center inside the Butterfield Trail Air Cargo Complex where the FTZ No. 68 offices are located manages FTZ No. 68. The long-term impact of these efforts is expected to retain and create more job opportunities in the El Paso trade region. Currently, FTZ No. 68 consists of 3,443 acres designated at 21 contiguous sites through out the east, northeast, and southeast industrial areas of the city. FTZ No. 68 is the fifth largest in volume general-purpose zone in the nation, and the largest general-purpose FTZ on the US/Mexico border. Its one-stop documentation office with US Customs personnel presence makes it one of the few zones that provide a major advantage for conducting FTZ business. On an annual basis, over \$2 billion in value of merchandise goes through the zone.

PRIOR COUNCIL ACTION:

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

No.

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?

No funding is necessary.

BOARD / COMMISSION ACTION:

Enter appropriate comments or N/A

Not Applicable

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

LEGAL: (if required) Raymond Torres

FINANCE: (if required) _____

DEPARTMENT HEAD: _____

PATRICK T. ABELN, DIRECTOR OF AVIATION

(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: _____

RESOLUTION

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

That the City Manager be authorized to sign a Foreign-Trade Zone Manufacturing Operator Agreement by and between the City of El Paso, Department of Aviation, Foreign-Trade Zone No. 68 ("Grantee"); National Union Electric Corp., Bruce and Marilyn Garnand Trust, and Eureka Plaza Co. (collectively referred to as "Owner"); and Electrolux Home Care Products Ltd. ("Manufacturing Operator"). The proposed manufacturing activity will occur within the boundaries of Foreign-Trade Zone No. 68 at three locations (9600 Pan America Way, 9660 Plaza Circle and 9500 Plaza Circle, all located in El Paso, TX 79927) which Electrolux has the authority to use via long term leases or deeds.

ADOPTED THIS 29TH DAY OF AUGUST 2006.

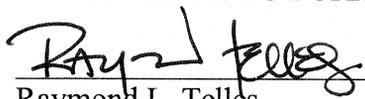
CITY OF EL PASO

John F. Cook
Mayor

ATTEST:

Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:



Raymond L. Telles
Assistant City Attorney

STATE OF TEXAS)
)
COUNTY OF EL PASO)

**FOREIGN-TRADE ZONE
MANUFACTURING OPERATOR
AGREEMENT**

THIS FOREIGN-TRADE ZONE MANUFACTURING OPERATOR AGREEMENT is made and entered into this ____ day of _____, 2006, by and between the Grantee, the Owner, and the Manufacturing Operator, each as identified in Article I below.

WITNESSETH:

WHEREAS, Foreign-Trade Zone No. 68 (the "Zone") has been approved by the Foreign-Trade Zones Board; and

WHEREAS, the Premises described below are within the boundaries of the Zone; and

WHEREAS, it is the desire of the Grantee, Owner and the Manufacturing Operator that the Manufacturing Operator be a designated Manufacturing Operator of the Zone in accordance with the terms hereof;

NOW, THEREFORE, the Grantee, Owner and the Manufacturing Operator, in consideration of the terms, covenants, and conditions contained herein, hereby agree as follows:

ARTICLE I – PARTIES, DEFINITIONS AND TERM

1.01 PARTIES:

- A. **GRANTEE:** Foreign-Trade Zone No. 68
City of El Paso, Department of Aviation
International Trade Processing Center
501 George Perry, Suite I
El Paso, Texas 79906
Attn: Jose Quiñonez, Manager
- B. **MANUFACTURING OPERATOR:** Electrolux Home Care Products Ltd.
807 N. Main St.
Bloomington, IL 61701-3041
Attn: Jennifer Hughey,
Vice President Supply Chain

Copy of Notices to:
Electrolux Legal Department-NOTICES
20445 Emerald Parkway, SW., Suite 250
Cleveland, Ohio 44135

C. **OWNER:** National Union Electric Corp.
c/o Electrolux Home Care Products Ltd.
807 N. Main St.
Bloomington, IL 61701-3041
(hereinafter individually referred to as "Owner 1")

Bruce and Marilyn Garnand Trust
Garnand Investments, Inc.
200 Bartlett
El Paso, Texas 79912
(hereinafter individually referred to as "Owner 2")

Eureka Plaza Co. – Tenants
C/o The Cardinal Company
15260 Ventura Blvd., Suite 1120
Sherman Oaks, California 91403
(hereinafter individually referred to as "Owner 3")

Owner 1, Owner 2 and Owner 3 as referenced herein, shall be collectively referred to as "Owner"

1.02 **DEFINITIONS:**

- A. **ACT:** The Foreign-Trade Zones Act of 1934, as amended (19 U.S.C. Sections 81a - 81u) and the regulations applicable to the operation of Foreign-Trade Zones, including but not limited to 19 CFR 146.
- B. **BOARD:** Foreign-Trade Zones Board, United States Department of Commerce, Washington, D.C., which consists of the Secretary of the Department of Commerce and the Secretary of the Treasury or their designated alternates.
- C. **CUSTOMS SERVICE:** The United States Customs and Border Protection, a division of the Department of Homeland Security.
- D. **MANAGER:** Foreign-Trade Zone Manager, designated by the City of El Paso.
- E. **PREMISES:** Lot 4, Block 6, Pan American Center for Industry Unit 3 Replat A, municipally known and numbered as 9600 Pan American Dr., City of El Paso, El Paso County, Texas 79927 owned by Owner 1;

all of Lot 8 and a portion of Lot 9, Block 1, Pan American Center for Industry, Unit Three, municipally known and numbered as 9660 Plaza Circle, City of El Paso, El Paso County, Texas 79927 owned by Owner 2;

a portion of Lot 1, Block 5, Pan American Center for Industry, Unit Two, municipally known and numbered as 9500 Plaza Circle, City of El Paso, El Paso County, Texas 79927 owned by Owner 3;

the parcels individually noted above shall be collectively referred to herein as the Premises, and are more fully described in Exhibit "A", which is attached hereto and incorporated herein by reference for all purposes.

F. **ZONE:** Foreign-Trade Zone No. 68 approved by the Foreign-Trade Zones Board on April 14, 1981, and expanded on May 2, 1984, January 3, 1991, January 20, 1999, September 8, 2000, and June 16, 2006.

G. **ZONE OFFICES:** FOREIGN-TRADE ZONE No. 68
CITY OF EL PASO
EL PASO INTERNATIONAL AIRPORT
INTERNATIONAL TRADE PROCESSING CENTER
501 GEORGE PERRY, SUITE I
EL PASO, TEXAS 79906

1.03 TERM: The Term of this Agreement shall commence on the date it is executed on behalf of the Grantee and shall continue until such time as it is terminated as provided herein. However, in no event shall this Agreement become effective prior to the submittal by the Manufacturing Operator of the Customs Bond required herein.

ARTICLE II – OBLIGATIONS OF THE PARTIES

2.01 ADMINISTRATION OF ZONE. In accordance with the terms of this Agreement, the Manufacturing Operator shall be responsible for operating the Foreign-Trade Zone operations of the Manufacturing Operator within the Premises and shall provide all personnel, services, and materials it deems necessary for the proper administration and operation of its operations within the Premises. The administration of Foreign-Trade Zone activities by the Manufacturing Operator shall be limited in scope to only those Zone activities of the Manufacturing Operator. Said administration of Zone activities shall be further limited only to the Premises. The Manufacturing Operator shall conduct all of its operations hereunder in an orderly and business-like manner. The Manufacturing Operator shall not discriminate in the application of any rules, regulations, or procedures adopted by the Board, the laws and regulations of the United States, or the Tariff as referenced herein, in effect for the Zone. By execution of this Agreement the Manufacturing Operator and Owner have consented in advance to entrance upon the Premises by the Grantee, its agents and employees and the agents and employees of the Customs Service in accordance with Section 6.09. The Grantee shall be entitled to enter upon the Premises for Zone business.

2.02 NOTICE OF CHANGE IN OPERATING RULES. The Grantee shall provide the Manufacturing Operator with copies of applicable laws, regulations, directives, rules, rates, or procedures adopted by Grantee at least five (5) days before the Manufacturing Operator shall be required to comply therewith.

2.03 ZONE TARIFF. Pursuant to and in compliance with instructions of the Board, the Grantee has issued certain rates, rules, charges and regulations, known as the Tariff, which applies to operations within the Zone. The Tariff has been issued by the Grantee and has been provided to the Manufacturing Operator.

The Grantee shall, pursuant to the Act and the rules and regulations issued thereunder, abide by and apply such Tariff uniformly and without prejudice and shall at all times provide reasonable notice to Manufacturing Operator of all changes in said Tariff.

2.04 OCCUPANCY OF PREMISES. Through the Term of this Agreement, the Manufacturing Operator shall be either the owner of the real estate, which comprises the Premises or tenant in possession of the Premises pursuant to a lease by and between the Owner and the Manufacturing Operator, and upon request shall provide reasonable proof of such rights of possession.

2.05 COMPLIANCE WITH APPLICABLE LAWS AND REGULATIONS.

- A. Tariff. The Manufacturing Operator shall use the Zone in accordance with the provisions of this Agreement, the Act and the Tariff, as the Act and the Tariff might be modified from time to time during the term of this Agreement.
- B. Ordinances, Statutes and Regulations. The Manufacturing Operator shall observe and obey (and require its officers, employees, guests, invitees, and those doing business with it in the Zone to observe and obey) all applicable laws, rules, and regulations including but not limited to those of the City of El Paso, the State of Texas, the United States of America, the Board, and the Customs Service.
- C. Operating and Reporting Procedures. In conducting its business and operations within the Zone, the Manufacturing Operator shall adopt such operating and reporting procedures as are necessary to assure its compliance with the requirements of the Act, the Board and the Grantee. The Manufacturing Operator shall keep such books, records and accounts in accordance with Section 6.08 of this Agreement.
- D. Inventory Control System ("I.C.S."). The Manufacturing Operator shall also prepare and maintain an I.C.S. in a form acceptable to the Grantee and to the Customs Service. The Manufacturing Operator shall maintain records indicating a constant total of active Zone space in its use, as well as records indicating the quantity, value and type of merchandise

processed by the Manufacturing Operator. The I.C.S. shall be delivered to and approved by the Grantee and the Customs Service prior to the execution of this Agreement.

- E. Maintenance. The Manufacturing Operator and/or the Owner, as applicable, shall at all times maintain the Premises in good operating order, condition and appearance in accordance with applicable laws and codes. If any repairs required to be made by the Manufacturing Operator and/or the Owner, as applicable, are not made within thirty (30) days of receipt of written notice from the Manager or to make payment as demanded shall be considered an event of default under the Agreement and may, at the Grantee's option, result in termination of this Agreement. In the event the Board or the Customs Service assesses penalties for failure to make such repairs, the Manufacturing Operator and/or the Owner, as applicable, covenants and agrees that it shall be responsible for paying such penalties.
- F. Cooperation with Government Personnel. The Manufacturing Operator and Owner shall reasonably cooperate with United States Government personnel having jurisdiction over the Zone, and the employees, representatives and agents of the Grantee in every respect. However, nothing herein shall be construed as a waiver of Manufacturing Operator's and Owner's Constitutional or other legal rights.
- G. Responsibility for Appeals. By execution of this Agreement the Manufacturing Operator acknowledges that the Grantee, in its role as a Foreign-Trade Zone Grantee, is ultimately responsible for all communications with the Customs Service and Board in all matters involving the operation of the Zone. Therefore, any correspondence with the Customs Service and the Board concerning the Zone shall be made through the Grantee.

In the event a penalty is assessed in connection with the Manufacturing Operator's operations within the Zone, the Grantee will inform the Manufacturing Operator as soon as practicable. The Manufacturing Operator covenants and agrees that it will make payment of any such fines, penalties and liquidation damages in accordance with the instructions by the Customs Service and/or the Board. If the Manufacturing Operator desires to appeal the amount of penalty as permitted by the Act, the Manufacturing Operator must coordinate all such communications through the Grantee.

- H. Additional Regulations. The Manufacturing Operator shall be responsible for compliance with any and all other regulations applicable to the operation of a Foreign Trade Zone including, without limitation, the provisions of Subparts A – G of 19 CFR 146.

2.06 MARKETING OF THE ZONE. Neither the Manufacturing Operator nor the Owner shall promote or market the Zone on behalf of, or as a representative of, the Grantee, without the prior written consent of the Grantee. Nor shall the Manufacturing Operator or the Owner warrant or imply that the Manufacturing Operator or Owner represents the Grantee in any manner or to any extent other than as specifically provided for in the Foreign-Trade Zone laws and regulations and as mutually agreed pursuant to this Agreement.

ARTICLE III - FEES

PAYMENT OF FEES. By execution of this Agreement, the Manufacturing Operator covenants and agrees to pay the following fees to the Grantee:

- A. **Activation Fee.** Upon execution of this Agreement the Manufacturing Operator shall pay an activation fee in the amount of TWO THOUSAND AND 00/100 DOLLARS (\$2,000.00) to the Grantee for the purpose of covering administrative expenses incurred in commencing Zone operations.

- B. **User Fees.** The Grantee shall provide a statement each calendar month itemizing charges for each transaction, which occurred during the preceding month. At the time of the execution of this Agreement, the transaction fee is FIFTEEN AND 00/100 DOLLARS (\$15.00) per transaction. However, the transaction fee shall be the amount enumerated within the Tariff as may be amended from time to time. The transaction fee is subject to modification during the term of this Agreement by action of the El Paso City Council. Failure of Manufacturing Operator to make payment in full within fifteen (15) days following the date these fees are accrued will result in an assessment of a past due penalty equal to the maximum allowed by law from the date when the same was due and may result in termination of this Agreement without further notice or demand. Further, in the event of Manufacturing Operator's continued failure to make any such payment, the Grantee may choose to not process any transactions for the Manufacturing Operator until such time as the default in payment has been cured. In the event the default continues for more than thirty (30) days the Grantee will be required to pay a new Activation Fee at the prevailing rate in effect at the time of such re-activation.

ARTICLE IV - ADDITIONAL CHARGES

4.01 CUSTOMS SERVICE CHARGES AND LIENS.

- A. **Operational Expenses.** Any charges for services rendered by the Customs Service in connection with Manufacturing Operator's operations within the Zone shall be paid for by Manufacturing Operator and also shall

be passed on, if billed directly to Grantee, to the Manufacturing Operator incurring such charges. Failure to pay such charges within thirty (30) days from receipt of notification shall be an event of default and cause for termination.

- B. Fines and Penalties. The Manufacturing Operator shall reimburse the Grantee for any fees, penalties or other charges assessed against the Grantee by the Board, the Customs Service or any other governmental entity resulting from the Manufacturing Operator's operations within the Zone. Failure to reimburse the Grantee within fifteen (15) days of receipt of written notice shall be an event of default and may be cause for termination. This Agreement may be terminated and may result in the Grantee's taking action to collect the amount owed.

4.02 SECURITY EXPENSES. The Manufacturing Operator shall pay for the expenses incurred in satisfying the security requirements imposed by the Board, the Customs Service and/or any other federal agency. The parties agree that the U.S. Customs Service Standards for Cargo Security found in Treasury Directive 72-56 as amended provide the guidelines for such security requirements.

4.03 LIENS AND TAXES. The Manufacturing Operator shall pay all taxes and governmental charges of any kind that may be lawfully assessed against the Manufacturing Operator or the Grantee, with respect to the Premises.

ARTICLE V - BONDS

5.01 PAYMENT BOND. Upon execution of this Agreement, the Manufacturing Operator shall deliver a payment bond in the amount of FIFTY THOUSAND AND 00/100 DOLLARS (\$50,000.00), issued by a surety approved by the Grantee. This bond shall be executed on a form approved by the Grantee. The purpose of the bond is to secure payment of any fees or penalties assessed against the Manufacturing Operator or Grantee resulting from the Manufacturing Operator's activities within the Zone. Twelve (12) months from the effective date of this Agreement and every twelve (12) months thereafter the Grantee shall review the records of Zone activity by the Manufacturing Operator to determine whether the amount of the bond stated herein is sufficient or excessive. Based upon the number of transactions, the value of the merchandise routinely moved through the Zone, and any events of default, the Grantee may adjust the amount required for said payment bond. The payment bond shall be written by a company authorized to do business in the State of Texas and approved by the Grantee. Such bond shall be written in favor of the Grantee and shall provide that the surety will pay the Grantee, up to the amount of the bond, the amount of any fines, penalties or liquidated damages assessed against the Manufacturing Operator or the Grantee resulting from the Manufacturing Operator's activities within the Zone and which are not promptly paid by the Manufacturing Operator.

5.02 CUSTOMS BOND. The Manufacturing Operator shall also be responsible for the delivery of a Customs bond in the amount required by the Customs Service in the amount required by said Customs Service. This bond shall be executed on Customs Form 301, in compliance with the bond requirements enumerated within 19 CFR 113.73, as may be amended.

5.03 PROOF OF BONDS. Upon execution of this Agreement the Manufacturing Operator shall provide the Manager appropriate evidence that such bonds have been acquired and have been paid for. Corresponding evidence of renewal shall be delivered at least ten (10) days prior to the expiration date of any policy.

ARTICLE VI - INDEMNIFICATION AND INSURANCE

6.01 INDEMNIFICATION. MANUFACTURING OPERATOR AGREES TO INDEMNIFY AND HOLD THE GRANTEE, ITS OFFICERS, REPRESENTATIVES, ASSIGNS, AGENTS AND EMPLOYEES HARMLESS AGAINST ANY AND ALL CLAIMS, DEMANDS, DAMAGES, COSTS, AND EXPENSES, INCLUDING INVESTIGATION EXPENSES AND REASONABLE ATTORNEY'S FEES FOR THE DEFENSE OF SUCH CLAIMS AND DEMANDS, ARISING OUT OF OR ATTRIBUTED DIRECTLY, OR INDIRECTLY TO THE OPERATION, CONDUCT OR MANAGEMENT OF THE MANUFACTURING OPERATOR'S BUSINESS ON THE PREMISES, INCLUDING BUT NOT LIMITED TO ITS USE OF THE PREMISES, OR FROM ANY BREACH ON THE PART OF THE MANUFACTURING OPERATOR OF ANY TERMS OF THIS AGREEMENT, OR FROM ANY ACT OR NEGLIGENCE OF THE GRANTEE, ITS AGENTS, CONTRACTORS, EMPLOYEES, SUBTENANTS, CONCESSIONAIRES, OR LICENSEES IN OR ABOUT THE PREMISES. IN CASE OF ANY ACTION OR PROCEEDING BROUGHT AGAINST THE OPERATOR BY REASON OF ANY SUCH CLAIM, THE MANUFACTURING OPERATOR, UPON NOTICE FROM THE GRANTEE, AGREES TO DEFEND THE ACTION OR PROCEEDING BY COUNSEL ACCEPTABLE TO THE GRANTEE.

6.02 FIDELITY OBLIGATION. To the extent that the losses described in the above paragraph (Section 6.01) are recovered by the Manufacturing Operator under insurance policies in force, and to the extent that any such losses arise directly or indirectly from or out of any act or omission of the Manufacturing Operator or any act or omission of its agents, employees or invitees as authorized by the Manufacturing Operator, and that occurs in the Manufacturing Operator's operations within the Zone, the Manufacturing Operator agrees and covenants, during the term of this Agreement, to indemnify the Grantee, its officers, employees, representatives, assigns, and agents against all loss of money or other personal property belonging to the Grantee, or in which the Grantee has a pecuniary interest, or which is held by the Grantee in any capacity, when the Grantee shall sustain such loss through: larceny, theft, robbery, burglary, embezzlement, forgery, misappropriation, wrongful abstraction, willful misapplication or other fraudulent or dishonest act or acts.

6.03 NOTICE. The Manufacturing Operator hereby agrees that prompt and reasonable notice shall be given to the Grantee promptly concerning every demand, notice, summons or other process received in any claim, allegation or legal proceeding covered hereby.

6.04 COMPREHENSIVE GENERAL LIABILITY INSURANCE, INCLUDING INDEPENDENT CONTRACTOR'S LIABILITY. Manufacturing Operator agrees that, at its own cost and expense, it shall procure and continue in force throughout the term of this Agreement, for the benefit of itself and the Grantee, general liability insurance against any and all claims for injuries to persons or damage to property arising in connection with the Manufacturing Operator's operations in the Zone or in the performance of its obligations under this Agreement, such insurance at all times to be in an amount of not less than FIVE HUNDRED THOUSAND AND 00/100 DOLLARS (\$500,000.00) for bodily injury or death arising out of any one occurrence and ONE HUNDRED THOUSAND AND 00/100 DOLLARS (\$100,000.00) for property damage arising out of any one (1) occurrence.

6.05 COMPREHENSIVE AUTOMOBILE AND TRUCK LIABILITY INSURANCE. The Manufacturing Operator agrees that, at its own cost and expense, it shall procure and continue in force throughout the Term of this Agreement, for the benefit of itself and the Grantee, comprehensive automobile insurance, and liability insurance covering vehicles owned and hired by the Manufacturing Operator against all claims for injuries to persons or damage to property in an amount of not less than FIVE HUNDRED THOUSAND AND 00/100 DOLLARS (\$500,000.00) for bodily injury or death arising out of any one occurrence, and ONE HUNDRED THOUSAND AND 00/100 DOLLARS (\$100,000.00) for property damage arising out of any one (1) occurrence.

6.06 FORM AND EVIDENCE OF INSURANCE. Upon execution of this Agreement, but prior to the commencement of any activities by Manufacturing Operator in the Premises, the Manufacturing Operator shall deliver to the Manager appropriate evidence (either by a copy of the policy/policies or by a certificate of insurance in a form acceptable to the Manager) that such insurance is in effect and the applicable premium has been paid. Corresponding evidence of renewal of coverage shall be delivered at least ten (10) days prior to the expiration date of any policy. The insurance required in this Article shall be written by a company approved by the Grantee. Such insurance shall name the Grantee as an additional insured, as its interests may appear. No such insurance policy or policies may be canceled, terminated or modified without giving at least thirty (30) days advance written notice to the Grantee. Renewal policies or certificates shall be delivered to the Manager at least thirty (30) days prior to the expiration date of each policy.

If, during the Term of this Agreement, any of the policies are or become unsatisfactory to the Grantee as to form or substance, or if the carrier(s) issuing any such policy or policies are or become unsatisfactory to the Grantee, the Manufacturing Operator shall promptly obtain a new and satisfactory policy or policies. If the Manufacturing Operator shall fail to take out and maintain any of the insurance listed in this Article, and to pay

the premiums thereon, the Grantee shall have the right to take out such insurance and invoice the Manufacturing Operator for the costs thereof. However, failure by the Manufacturing Operator to comply with the insurance requirements of the Grantee shall be deemed an event of default and may result in the termination of this Agreement.

6.07 ACCIDENT AND CLAIM REPORTS. In the event of any injury to any person on or in the Premises, other than an employee of the Manufacturing Operator, or in the event of damage or loss to any property within the Premises, other than the property of the Manufacturing Operator, the Manufacturing Operator shall immediately notify the Manager in writing.

6.08 RECORDS RELATED TO FTZ TRANSACTIONS. The Manufacturing Operator shall maintain records related to FTZ transactions in accordance with generally accepted accounting principles and practices, and in accordance with any rules, regulations or directives of the Customs Service, the Board, or the Grantee throughout the term of this Agreement; and shall keep for five (5) years after the event, records, statements, and books of account (including records of original entry) recording all transactions pertaining to the Manufacturing Operator's operations under this Agreement. Such records will be kept at the Premises or placed in the Grantee's custody, at the sole expense of the Manufacturing Operator. Such records shall be subject to verification and audit by the Grantee, Customs Service, and the Board. Failure to comply with this Section shall be deemed an event of default by the Manufacturing Operator and may result in the termination of this Agreement by the Grantee.

6.09 INSPECTION. The Grantee shall have the right at all reasonable times and with reasonable notice to inspect the Premises for the purpose of: (i) examining the records under Section 6.08; (ii) examining the equipment of the Manufacturing Operator; (iii) observing the performance by the Manufacturing Operator of its obligations under this Agreement; and (iv) to do any act or thing which the Grantee may be obligated or have the right to do, by law, under this Agreement. The Grantee agrees not to interfere unreasonably with the Manufacturing Operator's business during such inspections.

ARTICLE VII – DEFAULT, REMEDIES AND DEACTIVATION

7.01 DEFAULT BY MANUFACTURING OPERATOR. The following events shall be deemed events of default by the Manufacturing Operator, and may result in the termination of this Agreement:

- A. Manufacturing Operator's failure to pay any transaction fee and such failure shall continue for a period of fifteen (15) days after receipt of written notice thereof.
- B. Manufacturing Operator's failure to comply with any term, provision or covenant of this Agreement, including this Section (other than the payment of fees noted in Section 7.01A above), and failure to cure such

non-compliance within twenty (20) days after receipt of written notice thereof; provided, however, in the instance in which a provision of this Agreement contains an explicit cure period other than the twenty (20) days noted herein, the original cure period shall control.

- C. Manufacturing Operator or any guarantor of its obligations under this Agreement becomes insolvent, or shall make a transfer in fraud of creditors, or makes an assignment for the benefit of creditors.
- D. Manufacturing Operator or any guarantor of its obligations under this Agreement files a petition under any section or chapter of the Bankruptcy Reform Act of 1978, as amended, or under any similar law or statute of the United States or any State thereof; or Manufacturing Operator or any guarantor of its obligations under this Agreement is adjudged bankrupt or insolvent in proceedings filed against the Manufacturing Operator or any guarantor of its obligations under this Agreement.
- E. A receiver or trustee is appointed for the Premises or for all, or substantially all, of the assets of the Manufacturing Operator or any guarantor of its obligations under this Agreement.
- F. Manufacturing Operator's failure to keep books, records and accounts in accordance with the manner set forth herein.
- G. Manufacturing Operator's failure to provide reports to Grantee in a timely manner.
- H. Manufacturing Operator's failure to pay fines and penalties assessed by the Customs Service, the Board or any other governmental agency.
- I. Receipt of notice from the Customs Service regarding the deactivation of the Premises, Zone, or any area affecting the Manufacturing Operator's ability to operate within the Zone.

7.02 REMEDIES. Upon the occurrence of any such event of default (and after the running of the applicable cure period), the Grantee shall have the option to pursue any one or more of the following remedies without any notice or demand whatsoever:

- A. Discontinue processing the Manufacturing Operator's Zone transactions until such time as the default is cured.
- B. Terminate this Agreement.
- C. Make claim against the Manufacturing Operator's surety pursuant to the payment bond required herein.

7.03 NON-WAIVER OF REMEDIES. Pursuit of any of the foregoing remedies shall not preclude pursuit of any other remedies herein provided or provided by law, nor shall pursuit of any other such remedy constitute a forfeiture or waiver of any fees due to Grantee hereunder or of any damages accruing to Grantee by reason of the violation of any of the terms, provisions and covenants herein contained. Forbearance by Grantee to enforce one or more of the remedies herein provided upon an event of default shall not be deemed or construed to constitute a waiver of such default.

7.04 DEACTIVATION. In the event of deactivation of the Premises, the Zone, or any area of the Zone affecting the operations of the Manufacturing Operator, the Manufacturing Operator shall reconcile all pending transactions and provide a reconciliation letter to the Grantee indicating that there is no remaining inventory within the Premises or the Zone. Such reconciliation letter shall also state that all transactions have been completed, leaving a zero balance on hand.

ARTICLE VIII - MISCELLANEOUS PROVISIONS

8.01 NOTICES. Whenever any notice is required or permitted hereunder such notice shall be in writing and sent by United States mail postage prepaid, registered mail, return receipt requested, addressed to the respective parties at the address for notice specified in Article I above or to such other address as the parties from time to time may designate to each other by prior written notice.

8.02 CAPTIONS. The captions and headings contained in this Agreement are used only to facilitate reference, and in no way define or limit the scope or intent of any of the provisions of this Agreement.

8.03 APPLICABLE LAW. This Agreement is entered into in El Paso, El Paso County, Texas, and the laws of the State of Texas shall govern the validity, performance, interpretation and enforcement of this Agreement. The parties agree that venue shall be in El Paso County, Texas.

8.04 NON-ASSIGNABILITY. The Manufacturing Operator shall not assign, sublet, sell, convey, or transfer all or any part of this Agreement in any way without the prior written consent of the Grantee. Any attempt to transfer or assign without the prior written consent of the Grantee shall be void and at the option of the Grantee may be deemed an event of default.

8.05 NO THIRD PARTY BENEFIT. No provision contained or incorporated in this Agreement shall create or give to third parties any claim or right of action against the Grantee or the Manufacturing Operator beyond such as legally may exist in the absence of any such provision.

8.06 ATTORNEY'S FEES. In any successful action brought by the Grantee for the enforcement of the obligations of the Manufacturing Operator under this Agreement the Grantee shall be entitled to recover court costs, interest and reasonable attorney's fees.

In any successful action brought by the Manufacturing Operator for the enforcement of the obligations of the Grantee under this Agreement, the Manufacturing Operator shall be entitled to recover court costs, interest and reasonable attorney's fees.

8.07 WAIVER. One or more waivers of any covenant, term or condition of this Agreement by either party shall not be construed by the other party as a waiver of any subsequent breach of the same covenant, term or condition. The consent or approval of either party shall not be deemed to waive or render unnecessary consent to or approval of any subsequent similar act.

8.08 SEVERABILITY. Every provision of this Agreement is intended to be severable. If any term or provision hereof is found to be illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of this Agreement.

8.09 ENTIRE AGREEMENT. This Agreement constitutes the entire Agreement of the parties on the subject matter hereof and may not be changed, modified, discharged, or extended except by written instrument duly executed by the parties.

8.10 SUCCESSORS AND ASSIGNS. All of the terms, covenants and agreements herein contained shall be binding upon and shall inure to the benefit of the successors and assigns of the respective parties hereto.

8.11 TIME IS OF THE ESSENCE. The parties agree that time is of the essence and that all obligations hereunder shall be timely performed on the dates on which complete performance is specified herein.

8.12 ELECTION OF REMEDIES. The Manufacturing Operator agrees that the Grantee shall have all the rights and remedies granted by this Agreement at law or in equity, and that these same rights and remedies shall be cumulative and may be pursued separately, successively or concurrently against the Manufacturing Operator and/or its surety company. The exercise or failure to exercise any right or remedy by the Grantee shall never be construed to be a waiver or release of any other right or remedy.

8.13 NON-PARTNERSHIP. Nothing herein contained shall be deemed or construed by the parties hereto, nor by any third party, as creating the relationship of principal and agent or of partnership or joint venture between the parties hereto, it being understood and agreed that neither the provisions contained herein, nor any acts of the parties hereto, shall be deemed to create any relationship between the parties hereto other than the relationship of Grantee and Manufacturing Operator in a foreign-trade zone.

8.14 VIOLATIONS OF LAWS, RULES, REGULATIONS. The Grantee shall be under no obligation to perform under this Agreement if the activity would cause the Grantee to be, or result in the Grantee being in violation of any law, rule or regulation of the State of Texas, the United States of America, or any governmental agency governing foreign-

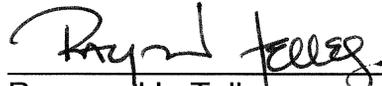
trade zones. Subject to the foregoing sentence, for the term of the Lease Agreement, the Grantee shall not interfere with the Manufacturing Operator's use of the Premises as a foreign trade zone.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by a duly authorized representative on the date first noted above.

THE CITY OF EL PASO:

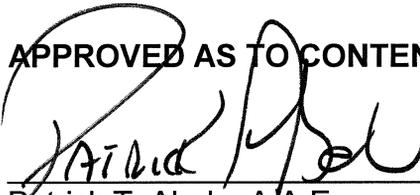
Joyce A. Wilson
City Manager

APPROVED AS TO FORM:



Raymond L. Telles
Assistant City Attorney

APPROVED AS TO CONTENT:



Patrick T. Abeln, A.A.E.
Director of Aviation

ACKNOWLEDGMENT

(Grantee)

STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on this ____ day of _____, 2006, by **Joyce A. Wilson** as **City Manager** of the **City of El Paso, Texas**.

Notary Public, State of Texas

(SIGNATURES BEGIN ON THE FOLLOWING PAGE)

MANUFACTURING OPERATOR:
Electrolux Home Care Products Ltd.

ATTEST:

By: _____
Printed Name: _____
Title: _____

By: Jan Wlasof
Printed Name: Jan Wlasof
Title: CFO

ATTEST:

By: _____
Printed Name: _____
Title: _____

OWNER 1: National Union Electric Corp.
(now known as Electrolux Home Care
Products Ltd.)

By: Jan Wlasof
Printed Name: Jan Wlasof
Title: CFO

ATTEST:

By: Lisa Manning
Printed Name: Lisa Manning
Title: Commercial Banking Assistant

OWNER 2:
Bruce and Marilyn Garnand Trust
Garnand Investments, Inc.

By: Bruce Garnand
Printed Name: Bruce Garnand
Title: President

ATTEST:

By: Ch M. Kaplan
Printed Name: Ch M. Kaplan
Title: Notary Public

OWNER 3: Eureka Plaza Co. - Tenants

By: Carl M. Buck
Printed Name: CARL M. BUCK
Title: AGENT

(ACKNOWLEDGMENTS BEGIN ON THE FOLLOWING PAGE)

ACKNOWLEDGMENT
(Manufacturing Operator)

THE STATE OF Illinois)
)
COUNTY OF McLean)

This instrument was acknowledged before me on this 14th day of August, 2006 by Jan Wolansky, as CFO of **Electrolux Home Care Products Ltd.** (Manufacturing Operator).

Diana McLean

Notary Public, State of Illinois
Notary's Name (printed): Diana McLean

Notary's Commission Expires:
June 5, 2009



ACKNOWLEDGMENT
(Owner 1)

THE STATE OF Illinois)
)
COUNTY OF McLean)

This instrument was acknowledged before me on this 14th day of August, 2006, by Jan Wolansky, as CFO of **Electrolux Home Care Products Ltd.** (formerly known as National Union Electric Corp.) (Owner – 9600 Pan American).

Diana McLean

Notary Public, State of Illinois
Notary's Name (printed):
Diana McLean

Notary's Commission Expires:
June 5, 2009



(ACKNOWLEDGMENTS CONTINUE ON THE FOLLOWING PAGE)

ACKNOWLEDGMENT

(Owner 2)

THE STATE OF New Mexico)
COUNTY OF Santa Fe)

This instrument was acknowledged before me on this 10 day of August, 2006, by Bruce Garnand, as President of Bruce and Marilyn Garnand Trust, Garnand Investments, Inc. (Owner - 9660 Plaza Circle).

Lisa Manning
Notary Public, State of
Notary's Name (printed):
Lisa Manning

Notary's Commission Expires:
April 25, 2009

ACKNOWLEDGMENT

(Owner 3)

THE STATE OF California)
COUNTY OF Los Angeles)

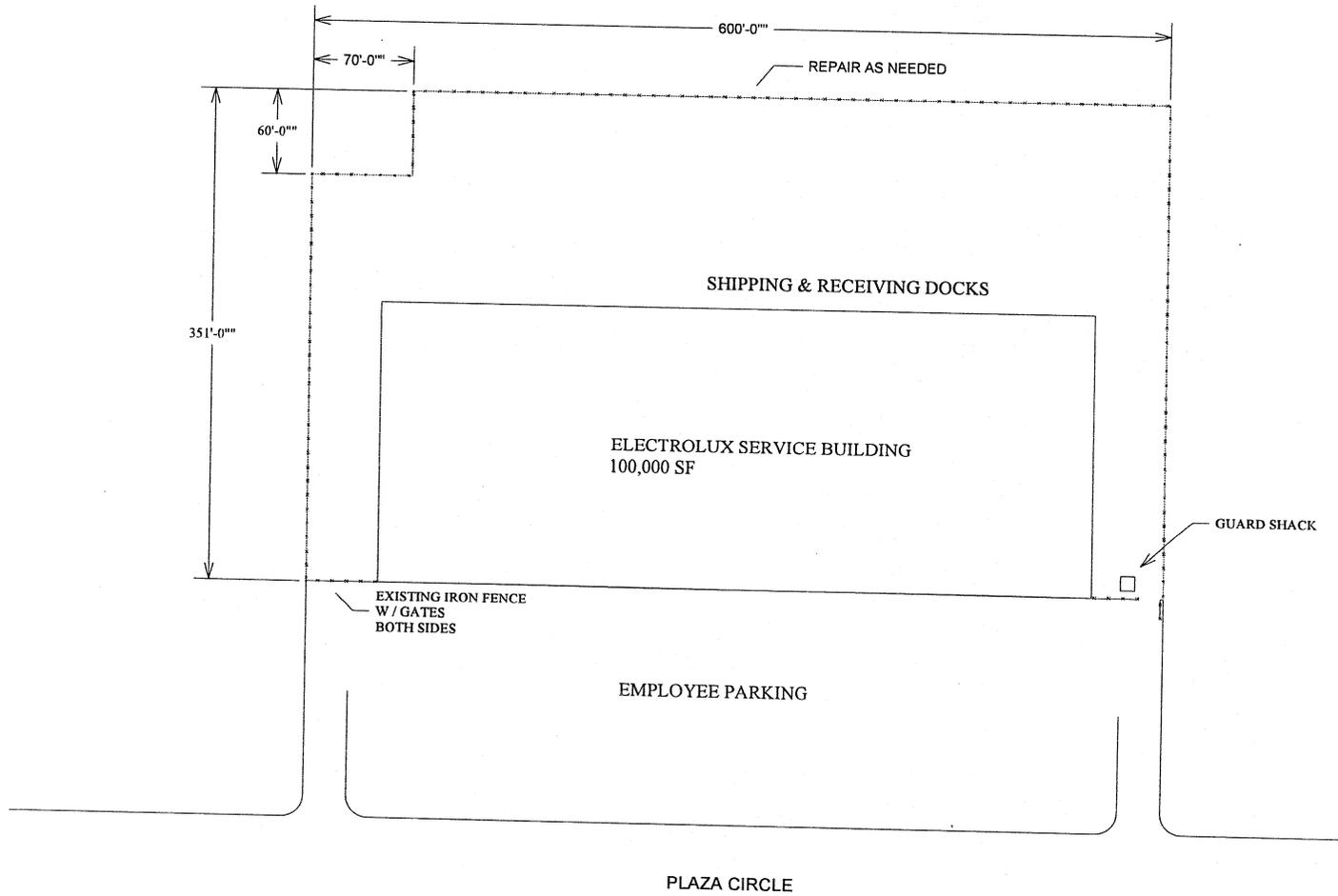
This instrument was acknowledged before me on this 24 day of August, 2006, by Ola M. Kaplan, as CARL M. BUCK of Eureka Plaza Co. - Tenants. (Owner - 9500 Plaza Circle).

Ola M. Kaplan
Notary Public, State of California
Notary's Name (printed):
Ola M. Kaplan

Notary's Commission Expires:
Jan 28, 2010

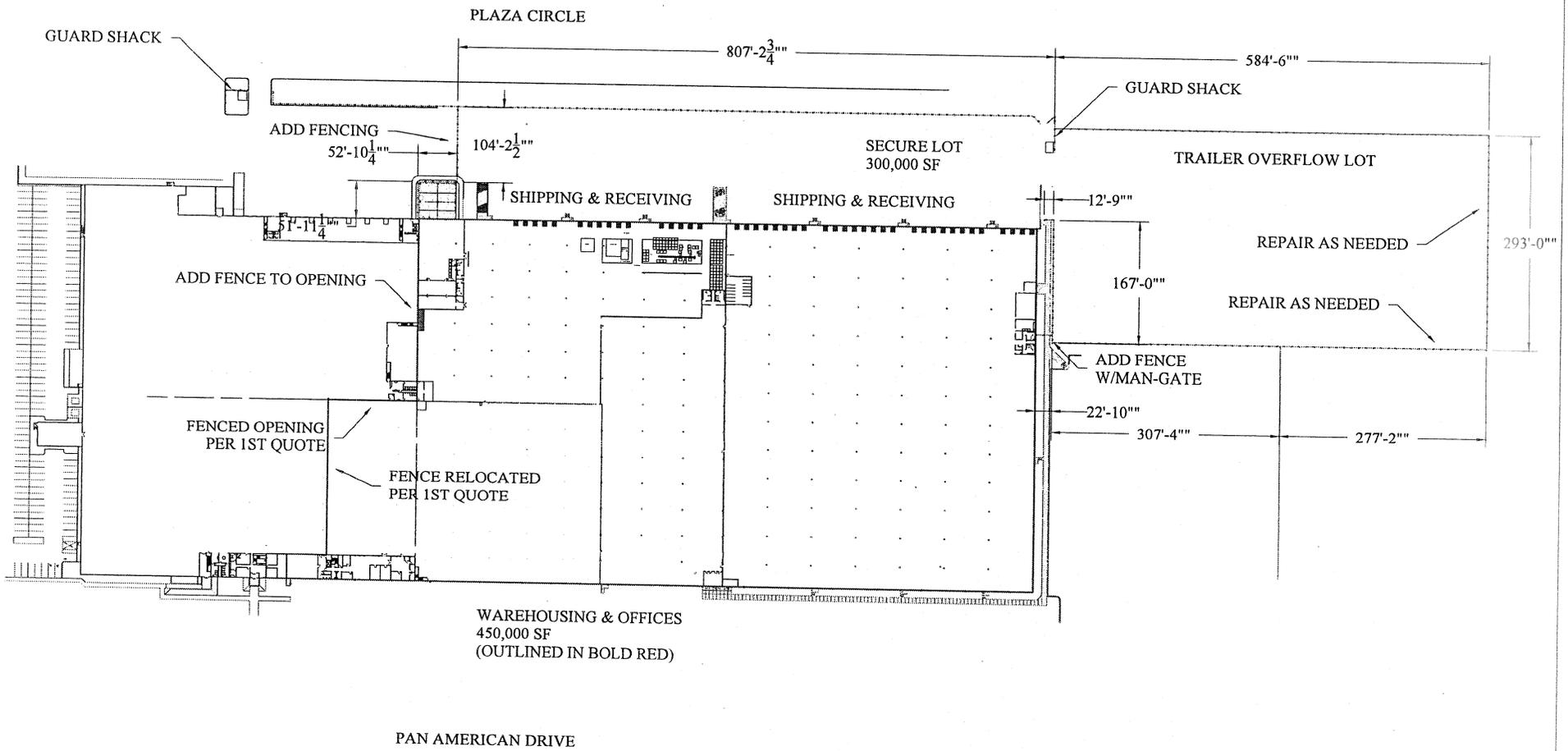


SHEFFEY 06/28/06
RELEASED FOR
REVIEW
SHEFFEY 07/06/06
REMOVED "SECURE
LOT"



SCALE: 1" = 80'

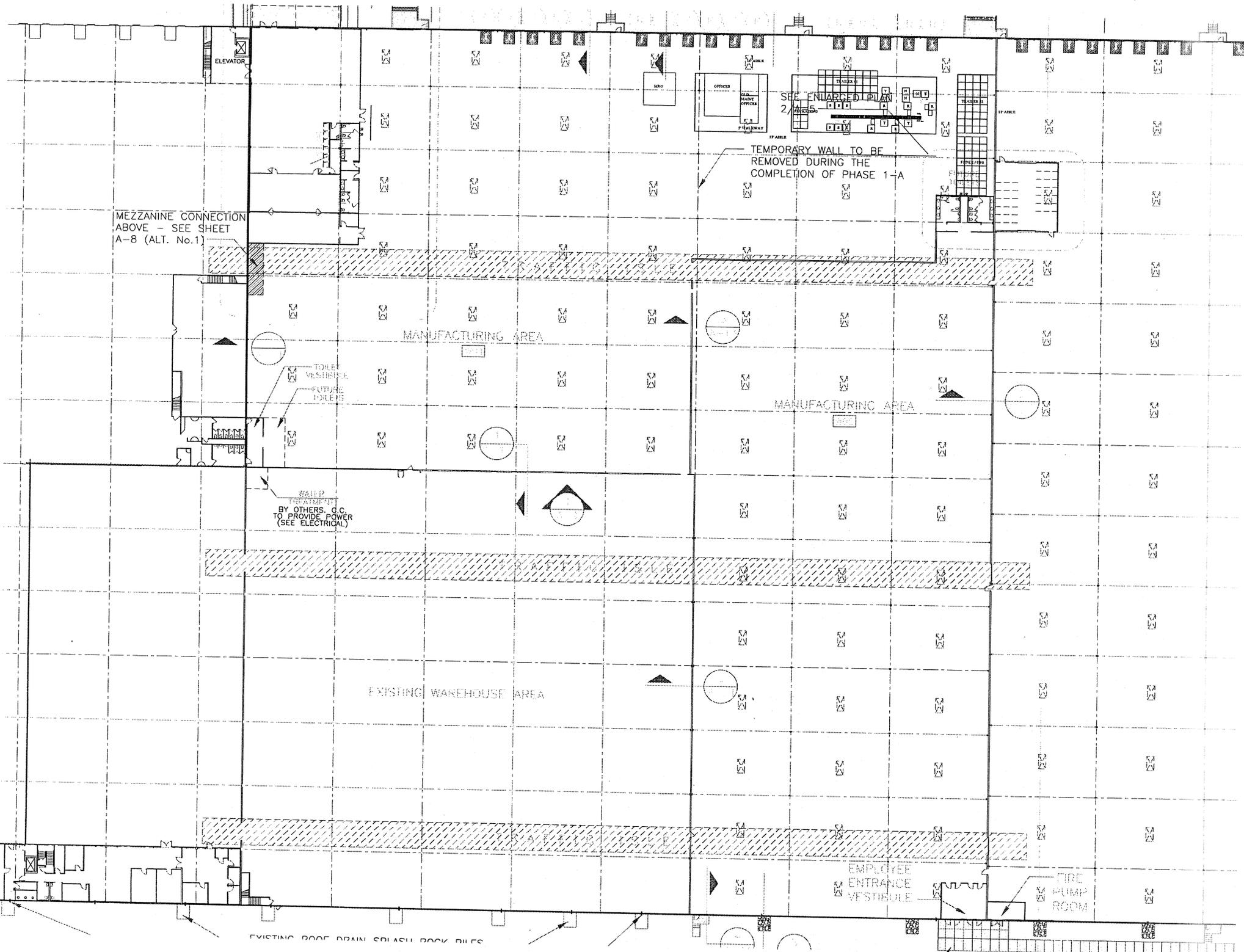
Foreign Trade Zone
Electrolux Home Care Products, NA
9660 Plaza Circle
El Paso, TX 79927



SHEFFEY 06/28/06
 RELEASED FOR
 REVIEW

SCALE = 1:1600

Foreign Trade Zone
 Electrolux Home Care Products, NA
 9600 Pan American Dr.
 El Paso, TX 79927



ELEVATOR

MEZZANINE CONNECTION
ABOVE - SEE SHEET
A-8 (ALT. No.1)

OFFICE
MAINT. OFFICE
WALKWAY

SEE ENLARGED PLAN
2/16/65

TEMPORARY WALL TO BE
REMOVED DURING THE
COMPLETION OF PHASE 1-A

MANUFACTURING AREA

TOILET
VESTIBULE
FUTURE
DOORS

MANUFACTURING AREA

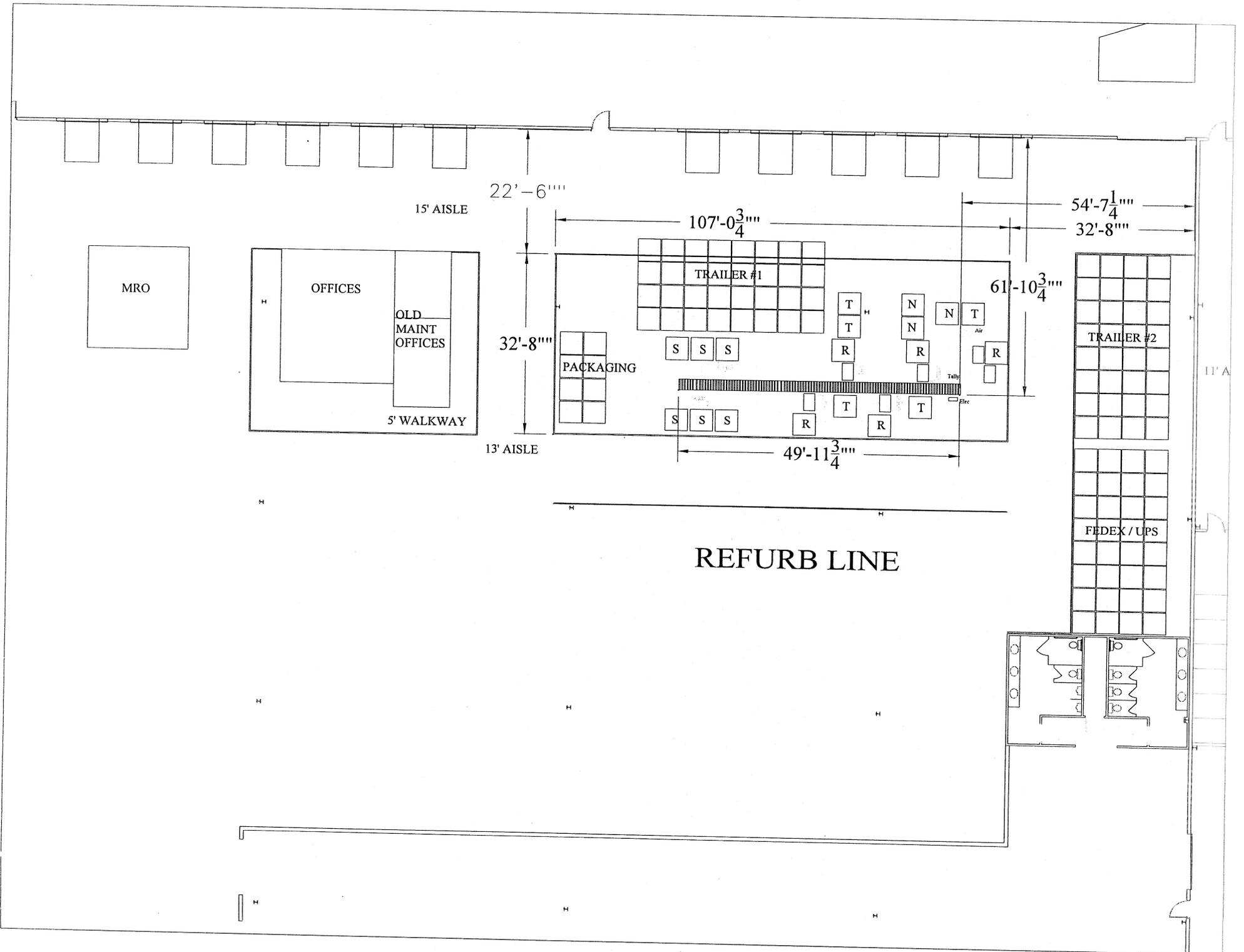
WALL
TO BE
REMOVED
BY OTHERS. G.C.
TO PROVIDE POWER
(SEE ELECTRICAL)

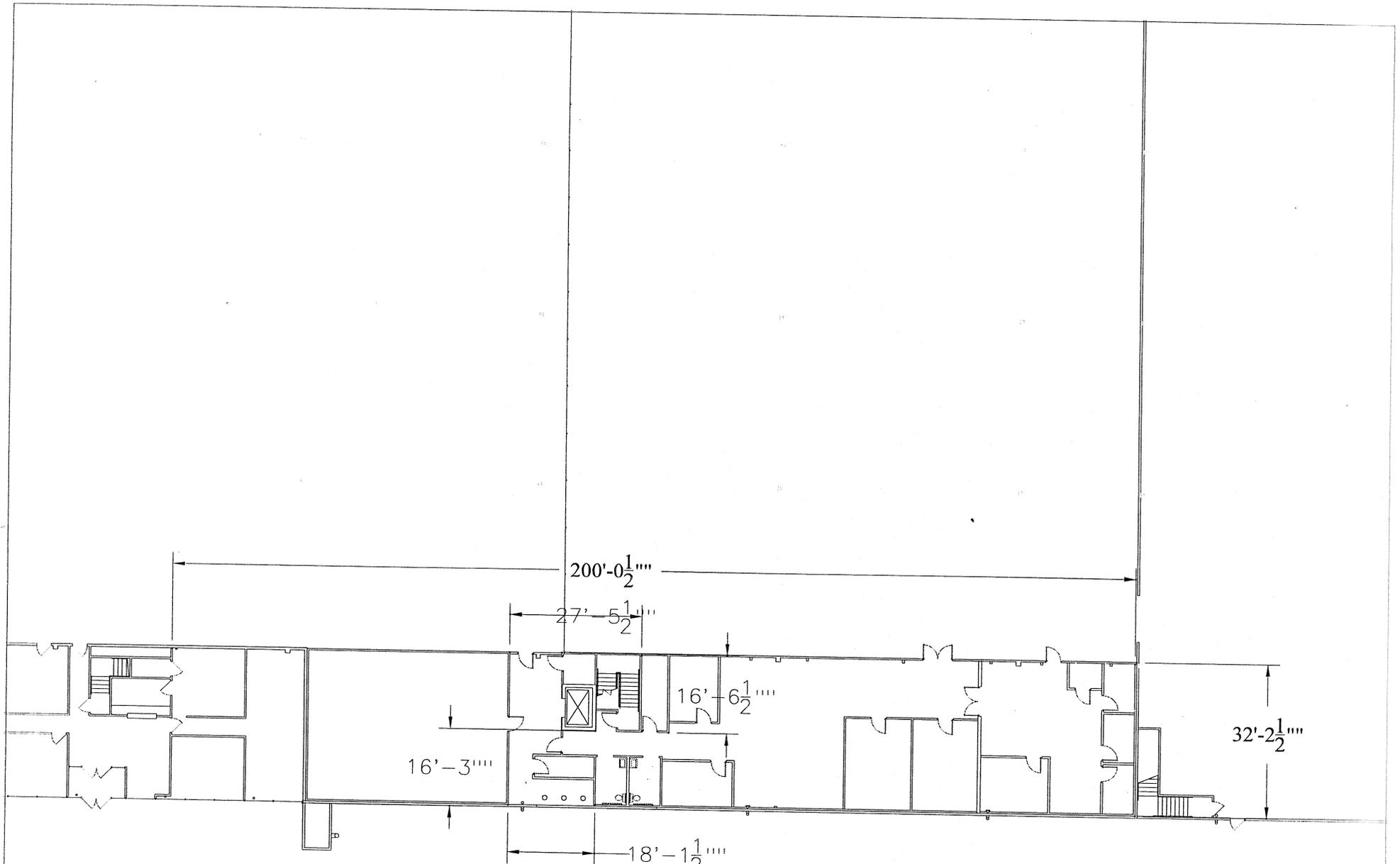
EXISTING WAREHOUSE AREA

EMPLOYEE
ENTRANCE
VESTIBULE

FIRE
PUMP
ROOM

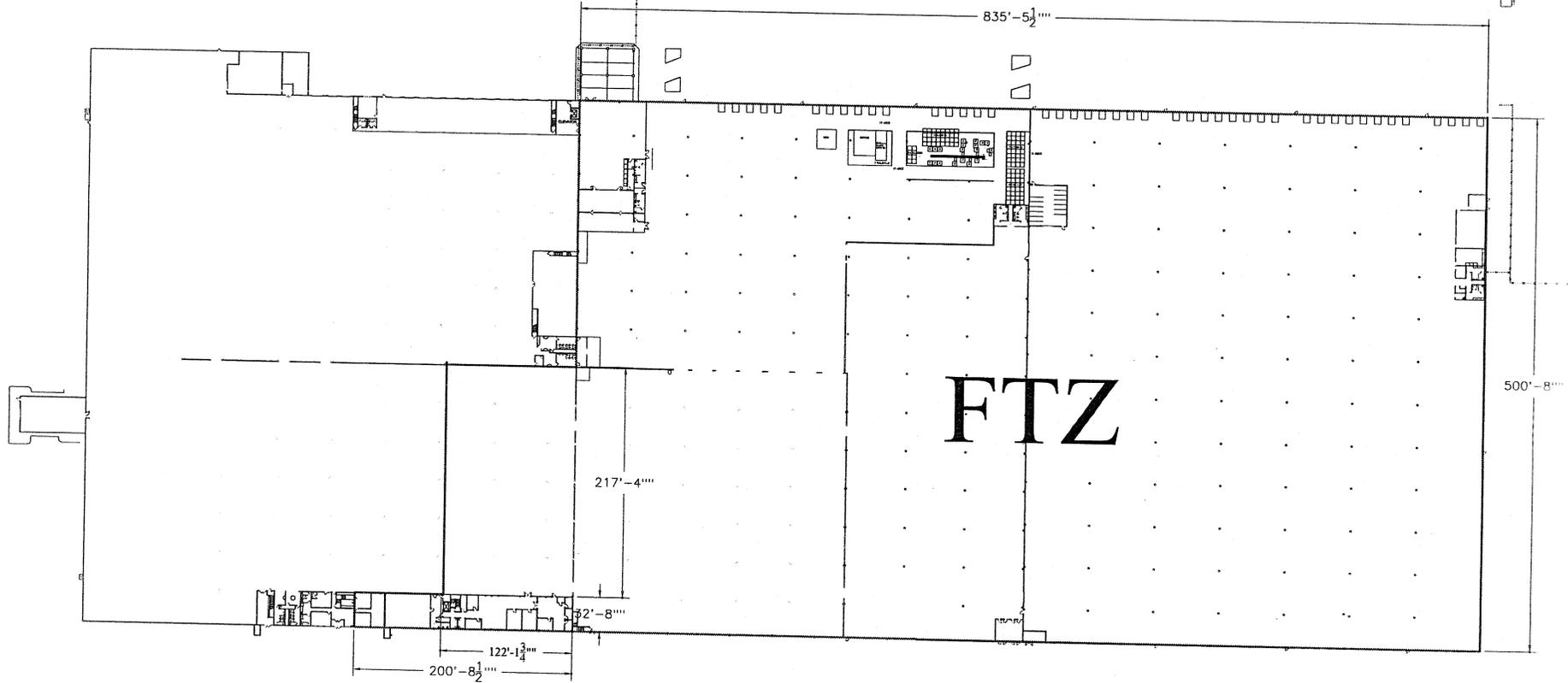
EXISTING ROOF DRAIN SPLASH ROCK PILES



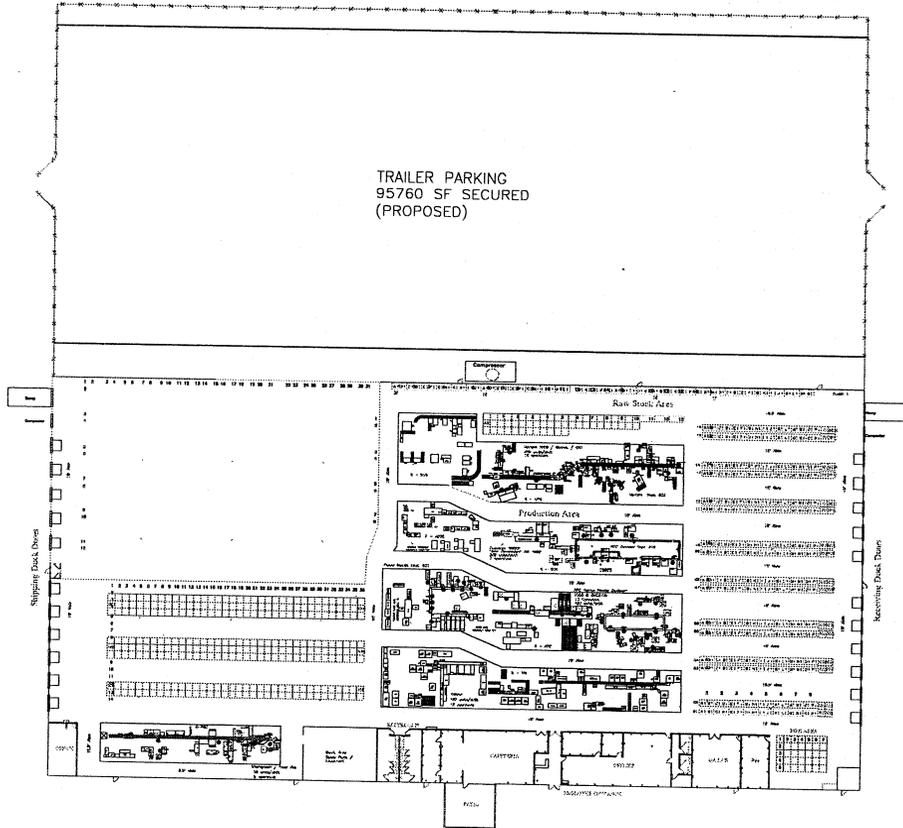


DOWNSTAIRS OFFICES
6465 SQ FT
- 275 SQ FT COMMON

Foreign Trade Zone
Electrolux Home Care Products, N.A.
9600 Pan American Drive
El Paso, TX 79936
450,000 Sq. Ft. Including Offices



SHEFFY 06/28/06
RELEASED FOR
REVIEW



| | |
|----------------|-------------------|
| AERUS MFG | 28,920 SF |
| ELECTROLUX MFG | 2,340 SF |
| OFFICES | 8,322 SF |
| MATERIALS | 60,418 SF |
| TOTAL | 100,000 SF |

SCALE = 1:400

Foreign Trade Zone
Electrolux Home Care Products
9500 Plaza Circle
El Paso, TX 79927

Plant 1

9600 Pan American Dr.

450,000 Warehousing & Offices
300,000 Secure Lot
750,000 Plant 1 Total

Plant 2

9660 Plaza Circle

100,000 Service Building

Plant 3

9500 Plaza Circle

28,920 Aerus Manufacturing
2,340 Electrolux Manufacturing
8,322 Offices
60,418 Materials
100,000 Plant 3 Total

950,000 Electrolux Foreign Trade Zone Total Sq. Ft.