

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

DEPARTMENT: **Engineering & Construction Management**

AGENDA DATE: **September 10, 2013**

CONTACT PERSON/PHONE: **Irene D. Ramirez, P.E., Interim City Engineer, 541-4431**

DISTRICT AFFECTED: **8, Representative Cortney Niland**

SUBJECT:

Item is to request approval of a resolution authorizing the City Manager to accept, on behalf of the City of El Paso, a *Letter of Agreement* between the City of El Paso and *Skinny Properties, LLC*, for the purchase of a portion of property at 3535 N. Mesa Street to be used as part of a Mesa Street RTS Corridor station.

BACKGROUND / DISCUSSION:

This proposed purchase is one of three portions of private property required by the Mesa Street Rapid Transit System Corridor project, which extends from the Downtown Transfer Center to the Westside Transfer Center (Santa Fe & 4th Street to Remcon Circle & North Mesa). Additional station sites within the Mesa RTS corridor will be situated on State and City right-of-way and do not require additional land acquisition. The subject parcel consists of 254 s.f. of frontage at 3535 N. Mesa and the City proposes to purchase the parcel for \$15,000.00, constituting full payment to the owning entities.

PRIOR COUNCIL ACTION:

Council previously considered and approved the purchase of 649 s.f. of frontage at 4305 N. Mesa and the purchase of 1,010 s.f. of frontage at 7022 N. Mesa for this project. (May 28, 2013 and July 9, 2013)

AMOUNT AND SOURCE OF FUNDING:

\$15,000.00 – Mesa RTS - 2009 CO's

<u>Project</u>	<u>Fund</u>	<u>Dept. ID</u>	<u>Division</u>	<u>Account</u>
PCP09CMP0020	4710	190	28300	580000

BOARD / COMMISSION ACTION:

(N/A)

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

DEPARTMENT HEAD: _____ **FOR:**

Irene D. Ramirez, P.E., Interim City Engineer

Information copy to appropriate Deputy City Manager

RESOLUTION

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

That the City Manager, or her designee, be authorized to sign any necessary documents for the purchase of a portion of the real property commonly known as 3535 N. Mesa Street, El Paso, El Paso County, Texas more particularly described as approximately 254 square feet of Lot 4, University Center, El Paso, Texas, including documents between the CITY OF EL PASO and SKINNY PROPERTIES, LLC, a Texas limited liability company.

ADOPTED this ____ day of _____, 2013.

CITY OF EL PASO

Oscar Leeser,
Mayor

ATTEST:

Richarda Duffy Momsen,
City Clerk

APPROVED AS TO FORM:



Cynthia Osborn
Assistant City Attorney

APPROVED AS TO CONTENT:



Irene Ramirez, P.E., CFM, CNU-A
Interim City Engineer

Dedicated to Outstanding Customer Service for a Better Community

S E R V I C E S O L U T I O N S S U C C E S S

**ENGINEERING AND CONSTRUCTION
MANAGEMENT DEPARTMENT**



May 9, 2013

Skinny Properties, LLC
c/o Ronald Christopher Malooly, President
3737 Gateway Blvd. West
El Paso, TX 79903-4555

Subject: Property described as an approximate 254 square foot portion of Lot 4, University Center, City of El Paso, El Paso County, Texas, within the property municipally known as 3535 N. Mesa, El Paso, Texas 79912

Dear Mr. Malooly:

The City's negotiations for a Rapid Transit System bus station on the property at 3535 N. Mesa owned by Skinny Properties have progressed to the point that you have agreed to sign a Deed to the City for the above referenced 254 square feet in return for payment of \$15,000.00. The City staff has agreed to present this settlement amount to the City Council for its approval. It is thought to be in the best interest of both you and the City of El Paso to confirm the details of our agreement in order to avoid any possible misunderstanding as to the purchase or the process by which the City will make payment.

The property to be purchased by the City is 254 square feet (the "Property"). The payment of the amount of Fifteen Thousand and No/100 dollars (\$15,000.00) will constitute full payment to be made by the City of El Paso for the Property to be conveyed to the City. The City and Skinny Properties, LLC have agreed to the following provisions, subject to City Council approval.

Until payment is made by the City, title and possession of the Property to be conveyed will remain in Skinny Properties, LLC and it shall bear all risk of loss to any and all such Property prior to such payment. At the closing at Rio Bravo Title, the City will pay for the fair and reasonable incidental expenses necessarily incurred in transferring title to the Property for use by the City of El Paso. After the closing but before they are past due Skinny Properties will be responsible for paying the 2013 taxes on the Property. After the closing the City will send a copy of the Deed into the City for the Property to the Central Appraisal District, notifying the District that for tax purposes the Property should be

Mayor
John F. Cook

City Council

District 1
Ann Morgan Lilly

District 2
Susie Byrd

District 3
Emma Acosta

District 4
Carl Robinson

District 5
Dr. Michel R. Nee

District 6
Eddie Holguin Jr.

District 7
Steve Ortega

District 8
Cortney Carlisle Niland

City Manager
Joyce A. Wilson

Dedicated to Outstanding Customer Service for a Better Community

SERVICE SOLUTIONS SUCCESS



removed from your larger parcel. Without cost to Skinny Properties the City will pay for the title policy in favor of the City, the title company escrow fee, and the recording fees of the Deed and of the Partial Release of Lien from Wells Fargo, which you have agreed to obtain from the Bank, and similar expenses incidental to conveying the Property to the City. You may file a written request for review if you believe that the City failed to properly determine the eligibility for, or the amount of, incidental expenses to either be paid by the City or to be reimbursed. There is no standard form on which to request a review of a claim; however, the claim must be filed with the City of El Paso Engineering and Construction Management Department at P.O. Box 1890, El Paso, TX 79950-1890 within six months after you are notified of the City's determination on any claim for reimbursement.

The payment of the amounts herein stated and the terms provided constitute the only promises, consideration and conditions of this purchase; and no other promises, consideration or conditions have been signified or implied.

Please review the proposed attached Warranty Deed and satisfy yourself as to its provisions. With your signature below, this letter agreement will be placed on City Council agenda for approval and the City will schedule the Closing. Rio Bravo Title has been designated as the City's closing agent and is responsible to see that the City obtains clear title. Once Rio Bravo Title has done so it will make payment to Skinny Properties, LLC.

Sincerely,

Irene D. Ramirez, P.E., CFM, CNU-a
Interim City Engineer

I fully understand and accept the City of El Paso's proposal as contained in this agreement.

SKINNY PROPERTIES, LLC, a Texas limited liability company

By: _____

Ronald Christopher Malooly, President

Date: _____

5/16/13

Mayor
John F. Cook

City Council

District 1
Ann Morgan Lilly

District 2
Susie Byrd

District 3
Emma Acosta

District 4
Carl L. Robinson

District 5
Dr. Michel R. Noe

District 6
Eddie Holgum Jr.

District 7
Steve Ortega

District 8
Cortney/Carlisle Niland

City Manager
Joyce A. Wilson

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

WARRANTY DEED

Date: May 16, 2013

Grantor: SKINNY PROPERTIES, LLC, a Texas limited liability company

Grantor's Mailing Address (including county):

3737 Gateway West
El Paso County
El Paso, Texas 79903

Grantee: THE CITY OF EL PASO, A MUNICIPAL CORPORATION

Grantee's Mailing Address (including county):

City of El Paso
300 N. Campbell
El Paso County
El Paso, Texas 79901

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

Property (including any improvements):

A portion of Lot 4, UNIVERSITY CENTER, an addition to the City of El Paso, El Paso County, Texas, according to the plat thereof on file in Volume 23, Page 35, Real Property Records, El Paso County, Texas, said portion being more particularly described by metes and bounds attached in Exhibit "A" attached and as shown in Exhibit "B" attached.

GRANT AND CONVEYANCE:

Grantor, for the Consideration, grants, sells, and conveys to Grantee the Property, together with all and singular the rights and appurtenances thereto in any way belonging, to have and to hold it to Grantee and Grantee's successors and assigns forever. Grantor binds Grantor and Grantor's successors and assigns to warrant and forever defend all and singular the Property to Grantee and Grantee's successors, and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof.

When the context of this instrument requires, singular nouns and pronouns will include the plural.

IN WITNESS WHEREOF this Warranty Deed is effective this the 16th day of May, 2013.

GRANTOR:
SKINNY PROPERTIES, LLC, a Texas limited liability company

By: *Ronald Christopher Malooly*
RONALD CHRISTOPHER MALOOLY, President

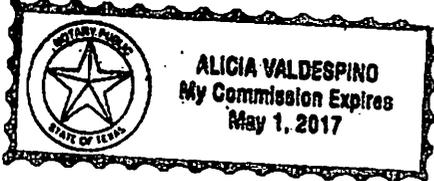
ACKNOWLEDGMENT

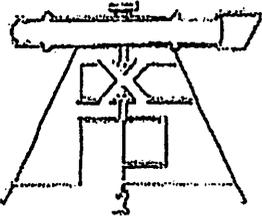
STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on the 16th day of May, 2013 by Ronald Christopher Malooly, President of Skinny Properties, LLC, a Texas limited liability company, on behalf of said company.

Alicia Valdespino
Notary Public, State of Texas

My commission expires:
May 1, 2017





Frank X. Spencer & Associates, Inc.
Consulting Civil Engineers & Surveyors
1130 Montana * El Paso, Texas 79902

Frank X. Spencer, P.E., R.P.L.S.

(915) 533-4600
FAX (915) 533-4673
e-mail: cfpaso@fxsa.com

**BOUNDARY SURVEY OF A PORTION OF
LOT 4, UNIVERSITY CENTER,
CITY OF EL PASO, EL PASO COUNTY, TEXAS**

**BEING A TRACT OF LAND SITUATED IN LOT 4, UNIVERSITY CENTER,
ACCORDING TO THE PLAT RECORDED IN VOLUME 23, PAGE 35, PLAT
RECORDS, EL PASO COUNTY, TEXAS, AND BOOK 2632, PAGE 1454, DEED
RECORDS, EL PASO COUNTY, TEXAS, AND BEING MORE PARTICULARLY
DESCRIBED AS FOLLOWS:**

COMMENCING, at a recovered Chiseled "X" in the south R.O.W. line of Sun Bowl Drive and as shown on TX-DOT Right-of-Way Map of Mesa Street prepared by Landtech Consultants, Inc. at Station 132+82.24; Thence, along said R.O.W. with a curve to the right having a Radius of 20.00 feet, a Chord bearing of South 78° 50' 40" East, Chord distance of 20.95 feet and an Arc length of 22.05 feet to a 5/8" rebar with an aluminum cap marked "TXS RPLS 2198" set for the POINT OF BEGINNING on the west R.O.W. line of Mesa Street/State Highway 20;

THENCE, continuing with said R.O.W. and with a curve to the right having a Radius of 20.00 feet, a Chord bearing of South 29° 02' 24" East, Chord distance of 12.51 feet and a Arc length of 12.72 feet to a Chiseled "X" set for corner;

THENCE, South 10° 48' 58" East, along the said R.O.W. line of Mesa Street, a distance of 58.78' feet to a Chiseled "X" set for corner;

THENCE, South 79° 00' 40" West, a distance of 3.70 feet to a Chiseled "X" set for corner on top of wheel stop;

THENCE, North 10° 59' 20" West, a distance of 70.68 feet, to the POINT OF BEGINNING and containing 0.006 acres (254 square feet) of land.

NOTE:

A SURVEY PLAT OF EVEN DATE ACCOMPANIES THIS "METES AND BOUNDS DESCRIPTION".
Frank X. Spencer & Associates, Inc.


JOHN N. CORDLE, RPLS
Texas License No. 2026
Date: 6/13/2012
FXSA Job No. S1110EP

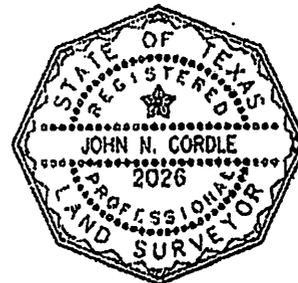
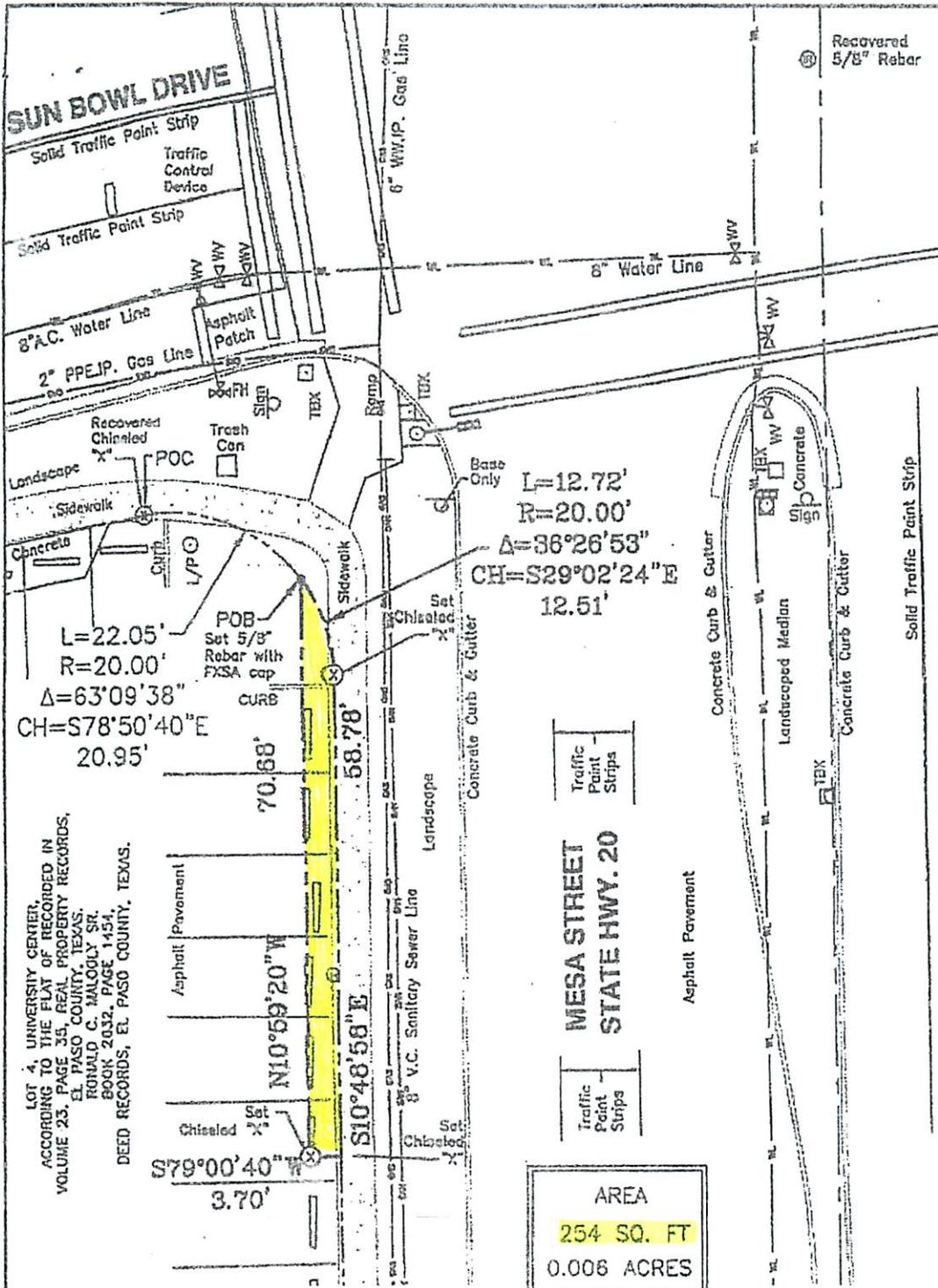
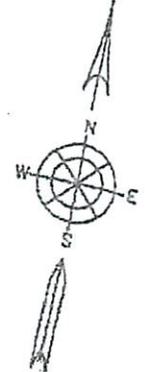


EXHIBIT A



SURVEY NOTES:

1. TITLE REPORT PROVIDED BY NORTH AMERICAN TITLE INSURANCE CO. GF No. 112704-JC, EFFECTIVE SEPTEMBER 25, 2011.
2. THE BASIS OF BEARINGS IS THE MONUMENT AT THE INTERSECTION OF SUN BOWL DRIVE AND MESA STREET/STATE HIGHWAY 20, TO A RECOVERED CHISELED "X" AS SHOWN ON TX-DOT RIGHT-OF-WAY MAP BY LANDTECH CONSULTANTS, INC. AT STATION 132+82.24
3. ACCORDING TO FEDERAL EMERGENCY MANAGEMENT AGENCY FLOOD INSURANCE RATE MAP PANELS 4802140033B, DATED OCTOBER 15, 1982, THIS PROPERTY LIES IN FLOOD ZONE C.
4. LOT 4, UNIVERSITY CENTER, AN ADDITION TO THE CITY OF EL PASO, EL PASO COUNTY, TEXAS ACCORDING TO THE PLAT RECORDED IN VOLUME 23, PAGE 35, REAL PROPERTY RECORDS, EL PASO COUNTY, TEXAS.
5. SET 5/8 INCH REBAR WITH ALUMINUM CAP MARKED "FXS RPLS 2198" AT ALL PROPERTY CORNERS UNLESS OTHERWISE INDICATED.



SCALE: 1"=20'
 0 10' 20'
 CONTOUR INTERVAL: 1.0'



MESA STREET
 STATE HWY. 20

AREA
 254 SQ. FT
 0.008 ACRES

6/13/2012
 DATE

John N. Cordle
 JOHN N. CORDLE
 Registered Professional Land Surveyor #2026

LOT 4, UNIVERSITY CENTER,
 ACCORDING TO THE PLAT OF RECORDED IN
 VOLUME 23, PAGE 35, REAL PROPERTY RECORDS,
 EL PASO COUNTY, TEXAS,
 RONALD C. MALOGLY SR.,
 BOOK 2032, PAGE 1454,
 DEED RECORDS, EL PASO COUNTY, TEXAS.

- LEGEND:**
- ⊙ RECOVERED CHISELED "X"
 - ⊕ SET CHISELED "X"
 - Ⓟ SIGN
 - POC POINT OF COMMENCEMENT
 - POB POINT OF BEGINNING
 - SET 5/8" REBAR WITH AN ALUMINUM CAP MARKED "FXS RPLS 2198"

FRANK X. SPENCER & ASSOCIATES, INC.
 Consulting Civil Engineers & Surveyors
 (TXREG F-1584, TPLSF 100490-00)
 1130 MONTANA AVE
 EL PASO, TX 79902
 PH: (915) 633-4800
 FAX: (915) 533-4673
 www.fxsa.com

BOUNDARY SURVEY OF
 A PORTION OF LOT 4, UNIVERSITY CENTER,
 AN ADDITION TO THE
 CITY OF EL PASO, EL PASO COUNTY, TEXAS



3535 N Mesa

SUN BOWL

MESA

MESTA

HAYSON

MESA

MCKELLIGON

ALETHEA PARK