

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

DEPARTMENT: City Development

AGENDA DATE: October 2, 2012

CONTACT PERSON/PHONE: Mathew McElroy/Jane Tomchik – 541-4897

DISTRICT(S) AFFECTED: 8

SUBJECT:

Discussion and Action on Resolution to authorize the City Manager to execute, on behalf of the City of El Paso, a Contract of Sale with Harl E. Dixon for the purchase of lots 1 through 5 and lots 6 through 8, Block 227, Campbell's Addition, an Addition in the City of El Paso, El Paso County Texas, municipally known as 801 and 811 Texas respectively, in the amount of two million and three hundred thousand dollars (\$2,300,000) inclusive.

BACKGROUND / DISCUSSION:

On June 26, 2012, Council approved a resolution authorizing the City Manager to execute a Term Sheet with Mountain Star Sports Group to construct a AAA ball park in the event that the Group finalizes the purchase of a AAA baseball team; and to pursue a financing plan for the construction of the ball park on the site of the current City Hall. The resolution further authorized the City Manager to pursue alternate locations for City Hall administration and operations.

PRIOR COUNCIL ACTION:

On August 7, 2012, Council authorized the City Manager to pursue further negotiation and finalization of a purchase contract for 801/11 Texas.

AMOUNT AND SOURCE OF FUNDING:

Certificates of Obligation and other funding sources to cover the purchase price and other costs related to closing.

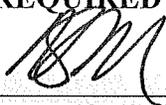
BOARD / COMMISSION ACTION:

Enter appropriate comments or N/A

NA

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

DEPARTMENT HEAD:



(Example: if RCA is initiated by Purchasing, client department should sign also)

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 be authorized to sign a Contract of Sale between HARL E. DIXON ("Seller") and the CITY OF EL PASO ("Purchaser"), for the purchase of the real property municipally known and numbered as 801 and 811 Texas Street, El Paso, El Paso County, Texas more particularly described as Lots 1 through 8, Block 227, Campbell's Addition an Addition to the City of El Paso, El Paso County, Texas, according to the City Block Map in the Office of the County Clerk of El Paso County, Texas;

And that the City Manager, or her designee, be authorized to sign any documents approved by the City Attorney to consummate the purchase and to make any necessary and appropriate budget transfers to accomplish the intent of this Resolution.

ADOPTED this _____ day of _____, 2012

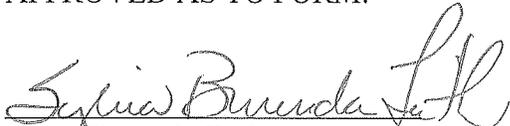
THE CITY OF EL PASO

John F. Cook
Mayor

ATTEST:

Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:


Sylvia Borunda Firth
City Attorney

APPROVED AS TO CONTENT:



William F. Studer, Jr., Deputy City Manager
Development and Tourism



Google earth



**SUMMARY REPORT
OF
A REAL PROPERTY APPRAISAL**



PREPARED FOR:

**City of El Paso
Attn: City Manager
#2 civic Center Plaza, 10th Floor
El Paso, Texas 79901-1196**

PREPARED BY:

**Mr. Walker R. Beard, MAI
Wilkinson, Pendergras & Beard, LP
P.O. Box 13501
El Paso, Texas 79913-3501**

**CURRENT DATE OF VALUATION
August 15, 2012**

WILKINSON, PENDERGRAS, & BEARD, L.P.

REAL PROPERTY APPRAISALS - PARTIAL INTERESTS - VALUATION CONSULTING

WALKER R. BEARD, CCIM, CPM, MAI **
GENEVIEVE S. PENDERGRAS **
JACK H. WILKINSON, MAI*, CPA, ABV
**State Certified - Texas & New Mexico
* State Certified - Texas

P.O. BOX 13501
EL PASO, TX 79913
VOICE (915) 845-3459
TELEFAX (915) 242-0935
WWW.BORDERAPPRAISAL.COM

August 20, 2012

City of El Paso
Attn: City Manager
#2 civic Center Plaza, 10th Floor
El Paso, Texas 79901-1196

Re: Galeria San Ysidro
801 and 811 Texas Avenue
El Paso, Texas
Appraiser's File Reference #3922

Ladies and Gentlemen:

Pursuant to your request for a Summary Appraisal Report of the fee simple rights of ownership of the buildings located at 801 and 811 Texas Avenue, El Paso, Texas, and more particularly described by the legal description contained herein, I submit the attached appraisal report. The use of this report is subject to the specific requirements of the Appraisal Institute relating to review by its duly authorized representatives and the attached limiting conditions. This appraisal was prepared in accordance with the requirements of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) relating to appraisal standards as enumerated in Chapter 12, Code of Federal Regulation, Part 34 (12 CFR 34). I estimate a reasonable exposure time for the subject of 12 months or less.

The appraisal reflects a summary report, which is intended to comply with the reporting requirements set forth under Standards Rule 2-2(b) of the Uniform Standards of Professional Appraisal Practice for a Summary Appraisal Report. As such, it presents only summary discussions of the data, reasoning, and analyses that were used in the appraisal process to develop the appraiser's opinion of value. Supporting documentation concerning the data, reasoning, and analyses is retained in the appraiser's file. The depth of discussion contained in this report is specific to the needs of the client and for the intended use stated below. The appraiser is not responsible for unauthorized use of this report.

THIS LETTER MUST REMAIN ATTACHED TO THE REPORT, WHICH IS 99 PAGES INCLUDING RELATED ADDENDA, IN ORDER FOR THE VALUE OPINION SET FORTH TO BE CONSIDERED VALID.

City Manager
City of El Paso
August 20, 2012

I am of the opinion that the current market value of the fee simple rights of ownership of the subject as of August 15, 2012, is:

TWO MILLION ONE HUNDRED EIGHTY THOUSAND DOLLARS

(\$2,180,000). *

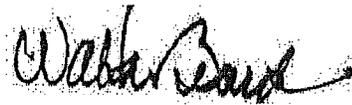
** Subject to the Extraordinary Assumptions and Limiting Conditions as noted on Page 7 of this report.*

Market Value as used in this report is defined as the most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer.

My appraisal is based on estimates, assumptions and other information developed from research of the market, knowledge of the industry, and information that was provided. I have not, as part of my valuation, performed an audit or review of the financial information used and, therefore, I do not express an opinion or any other form of assurance with regard to the same. Under the terms of this engagement, I have no obligation to revise this report or the estimated financial results to reflect events or conditions, which occur subsequent to the date of this appraisal.

I, the undersigned, do hereby certify that to the best of my knowledge and belief, the facts and data used herein are true and correct, that Walker R. Beard has personally inspected the subject property, and that I have no interest present or current therein.

Respectfully submitted,



Walker R. Beard, MAI
State Certified
TX -1320551-G

THIS LETTER MUST REMAIN ATTACHED TO THE REPORT, WHICH IS 99 PAGES INCLUDING RELATED ADDENDA, IN ORDER FOR THE VALUE OPINION SET FORTH TO BE CONSIDERED VALID.

EXECUTIVE SUMMARY

Current Date of Appraisal: August 15, 2012
Date of Report: August 20, 2012
Appraiser's File Reference: #3922
Legal Address: 801 & 811 Texas Avenue
El Paso, TX
Land Size: 24,960 Sq. Ft.
Improvement Description: 68,400 Gross Sq. Ft.
Zoning: M-1, Light Manufacturing
District
Interest Appraised: 100% Fee Simple – Land
100% Fee Simple – Impr.

OPINION OF CURRENT VALUE	
FINAL VALUE ESTIMATE	\$ 2,180,000 *

** Subject to the Extraordinary Assumptions and Hypothetical Conditions as noted on Page 7 of this report.*

Property

Account
 Property ID: 272715 Legal Description: 227 CAMPBELL 1 TO 5 (15600 SQ FT)
 Geographic ID: C05099922700100 Agent Code:
 Type: Real
 Property Use Code:
 Property Use Description:

Location
 Address: 801 TEXAS AVE Mapsco:
 EL PASO, TX
 Neighborhood: CBD EAST FRINGE Map ID: NWC173
 Neighborhood CD: 215

Owner
 Name: DIXON HARL E Owner ID: 128509
 Mailing Address: 205 CANYON TERRACE DR % Ownership: 100.0000000000%
 EL PASO, TX 79902

Exemptions:

Value

(+) Improvement Homesite Value:	+	\$0	
(+) Improvement Non-Homesite Value:	+	\$467,062	
(+) Land Homesite Value:	+	\$0	
(+) Land Non-Homesite Value:	+	\$312,000	Ag / Timber Use Value
(+) Agricultural Market Valuation:	+	\$0	\$0
(+) Timber Market Valuation:	+	\$0	\$0
<hr/>			
(=) Market Value:	=	\$779,062	
(-) Ag or Timber Use Value Reduction:	-	\$0	
<hr/>			
(=) Appraised Value:	=	\$779,062	
(-) HS Cap:	-	\$0	
<hr/>			
(=) Assessed Value:	=	\$779,062	

Taxing Jurisdiction

Owner: DIXON HARL E
 % Ownership: 100.0000000000%
 Total Value: \$779,062

Entity	Description	Tax Rate	Appraised Value	Taxable Value	Estimated Tax
CAD	CENTRAL APPRAISAL DISTRICT	0.00000 0	\$779,062	\$779,062	\$0.00
CEP	CITY OF EL PASO	0.65840 4	\$779,062	\$779,062	\$5,129.37
G01	EL PASO COUNTY	0.36119	\$779,062	\$779,062	\$2,813.94

6

IEP	EL PASO I.S.D.	1.23500 0	\$779,062	\$779,062	\$9,621.41
SCC	EL PASO COMMUNITY COLLEGE	0.11544 2	\$779,062	\$779,062	\$899.36
SHO	UNIVERSITY MEDICAL CENTER OF EL PASO	0.19236 3	\$779,062	\$779,062	\$1,498.63
STR	TAX INCREMENT REINVESTMENT ZONE	0.00000 0	\$779,062	\$779,062	\$0.00
Total Tax Rate:		2.56240 5			
				Taxes w/Current Exemptions:	\$19,962.71
				Taxes w/o Exemptions:	\$19,962.72

Improvement/Building

Improvement #1:	Commercial	State Code:	F2	Living Area:	62400.0 sqft	Value:	\$467,062
Type	Description	<u>Class CD</u>	Exterior Wall	Year Built	SQFT		
MA	MAIN AREA	ILCA	807	1919	46800.0		
MB4	BSMNT GOOD CONDITION *				15600.0		

Land

#	Type	Description	Acres	Sqft	Eff Front	Eff Depth	Market Value	Prod. Value
1	215011	ABOVE AVG PRIMARY CORNER	0.3581	15600.00	0.00	0.00	\$312,000	\$0

Roll Value History

Year	Improvements	Land Market	Ag Valuation	Appraised	HS Cap	Assessed
2013	N/A	N/A	N/A	N/A	N/A	N/A
2012	\$467,062	\$312,000		0	779,062	\$0 \$779,062
2011	\$288,000	\$312,000		0	600,000	\$0 \$600,000
2010	\$288,000	\$312,000		0	600,000	\$0 \$600,000

2009	\$288,000	\$312,000	0	600,000	\$0	\$600,000
2008	\$439,911	\$312,000	0	751,911	\$0	\$751,911

Deed History (Last Deed Information)

#	Deed Date	Type	Description	Grantor	Grantee	Volume	Page	Deed Number
1	1/1/2000 12:00:00 AM	UNK	UNKNOWN		UNION MANUFACTURING CO	0000	000	0
2	12/12/1994 12:00:00 AM	R	Resticted Sale	UNION MANUFACTURING CO	DIXON, HARL E	2831	169	9

All information contained herein, is considered in the public domain and is distributed without warranty of any kind, implied, expressed or statutory. The El Paso Central Appraisal District makes no claims, promises or guarantees about the accuracy, completeness, or adequacy of this information and expressly disclaims liability for any errors and omissions.

Information relating to 2012 should be considered a "work in progress". Prior year data is informational only and does not necessarily replicate the values certified to the tax office.

Building and land detail information is not available prior to 2009.

Property

Account

Property ID: 379213 Legal Description: 227 CAMPBELL 6 TO 8 (9360 SQ FT)
 Geographic ID: C05099922702400 Agent Code:
 Type: Real
 Property Use Code:
 Property Use Description:

Location

Address: 811 TEXAS AVE Mapsco:
 EL PASO, TX
 Neighborhood: CBD EAST FRINGE Map ID: NWC173
 Neighborhood CD: 215

Owner

Name: DIXON HARL E Owner ID: 128509
 Mailing Address: 205 CANYON TERRACE DR % Ownership: 100.0000000000%
 EL PASO, TX 79902

Exemptions:

Values

(+) Improvement Homesite Value:	+	\$0	
(+) Improvement Non-Homesite Value:	+	\$72,107	
(+) Land Homesite Value:	+	\$0	
(+) Land Non-Homesite Value:	+	\$140,400	Ag / Timber Use Value
(+) Agricultural Market Valuation:	+	\$0	\$0
(+) Timber Market Valuation:	+	\$0	\$0

(=) Market Value:	=	\$212,507
(-) Ag or Timber Use Value Reduction:	-	\$0
<hr/>		
(=) Appraised Value:	=	\$212,507
(-) HS Cap:	-	\$0
<hr/>		
(=) Assessed Value:	=	\$212,507

Tax Jurisdiction

Owner: DIXON HARL E
 % Ownership: 100.0000000000%
 Total Value: \$212,507

Entity	Description	Tax Rate	Appraised Value	Taxable Value	Estimated Tax
CAD	CENTRAL APPRAISAL DISTRICT	0.00000 0	\$212,507	\$212,507	\$0.00
CEP	CITY OF EL PASO	0.65840 4	\$212,507	\$212,507	\$1,399.16
G01	EL PASO COUNTY	0.36119 6	\$212,507	\$212,507	\$767.56
IEP	EL PASO I.S.D.	1.23500 0	\$212,507	\$212,507	\$2,624.46
SCC	EL PASO COMMUNITY COLLEGE	0.11544 2	\$212,507	\$212,507	\$245.32
SHO	UNIVERSITY MEDICAL CENTER OF EL PASO	0.19236 3	\$212,507	\$212,507	\$408.78
STR	TAX INCREMENT REINVESTMENT ZONE	0.00000 0	\$212,507	\$212,507	\$0.00
Total Tax Rate:		2.56240 5			
				Taxes w/Current Exemptions:	\$5,445.28
				Taxes w/o Exemptions:	\$5,445.29

Improvement/Building

Improvement #1: Commercial State Code: F1 Living Area: 1760.0 sqft Value: \$72,107

Type	Description	Class CD	Exterior Wall	Year Built	SQFT
MA	MAIN AREA	MYCA	804	1919	1760.0
54S	STORAGE	*		0	4840.0
45B	YARD PAVING--ASPHALT	*		1919	2760.0

Land

#	Type	Description	Acres	Sqft	Eff Front	Eff Depth	Market Value	Prod. Value
1	215014	ABOVE AVG INSIDE FRONTAGE	0.2149	9360.00	0.00	0.00	\$140,400	\$0

Rail Value History

Year	Improvements	Land Market	Ag Valuation	Appraised	HS Cap	Assessed
2013	N/A	N/A	N/A	N/A	N/A	N/A
2012	\$72,107	\$140,400	0	212,507	\$0	\$212,507
2011	\$29,778	\$140,400	0	170,178	\$0	\$170,178
2010	\$29,778	\$140,400	0	170,178	\$0	\$170,178
2009	\$29,778	\$140,400	0	170,178	\$0	\$170,178
2008	\$29,778	\$140,400	0	170,178	\$0	\$170,178

Deed History (Last 3 Deed Transactions)

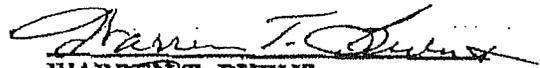
#	Deed Date	Type	Description	Grantor	Grantee	Volume	Page	Deed Number
1	6/27/1996 12:00:00 AM	W	Warranty Deed	BURNS, WARREN T & 2	DIXON, HARL E	3072	3298	
2	1/27/1982 12:00:00 AM	UNK	UNKNOWN		BURNS, WARREN T & 2	1234	1517	
3	1/4/1900 12:00:00 AM	UNK	UNKNOWN	BURNS, WARREN T & 2	CREAMER, W H	0000	0000	

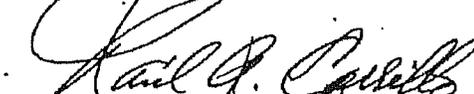
First Addendum dated November 10, 1993, and as further amended by Amendment to Lease Agreement of even date herewith, between Warren T. Burns a/k/a/ Warren Burns, Sr., Raul A. Carillo a/k/a Raul Carillo A. and Warren T. Burns, Jr. a/k/a Warren Burns, Jr. as Landlord and Maroel Amzallag as Tenant; rights of parties in possession; and taxes for the year of 1996 and thereafter.

TO HAVE AND TO HOLD the above described premises, together with all and singular the rights and appurtenances thereto in anywise belonging unto the said Grantee, his heirs, executors and administrators forever; and we do hereby bind ourselves, our heirs, executors and administrators to **WARRANT and FOREVER DEFEND** all and singular the said premises unto the said Grantee, his heirs, executors and administrators, against every person whomsoever lawfully claiming, or to claim the same, or any part thereof, subject to the matters aforesaid.

But it is expressly agreed and stipulated that the Vendor's lien, as well as the Superior Title in and to the above described premises, is retained against the above described property, premises and improvements until the above described note and all interest thereon is fully paid according to its face and tenor, effect and reading, when this Deed shall become absolute.

SIGNED this 28th day of JUNE, 1996, to be effective
June 27, 1996.


WARREN T. BURNS

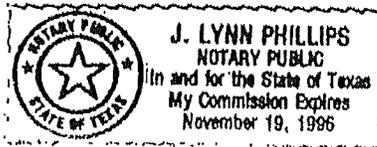

RAUL A. CARRILLO


WARREN T. BURNS, JR.

THE STATE OF TEXAS)

COUNTY OF EL PASO)

This instrument was executed this 28th day of June, 1996, by ^{WARREN} ~~WILLIAM T.~~ BURNS. JLP

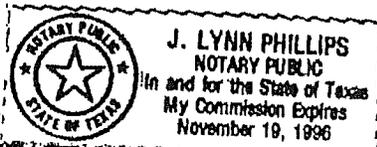


J. Lynn Phillips
Notary Public, State of Texas

THE STATE OF TEXAS)

COUNTY OF EL PASO)

This instrument was executed this 28th day of June, 1996, by RAUL A. CARRILLO.

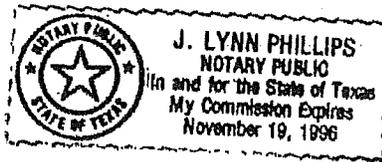


J. Lynn Phillips
Notary Public, State of Texas

THE STATE OF TEXAS)

COUNTY OF EL PASO)

This instrument was executed this 28th day of June, 1996, by WARREN T. BURNS, JR.



J. Lynn Phillips
Notary Public, State of Texas

PL-088/burn-dlx.doc

4

Doc# 96040957
Pages: 3
Date : 07-02-1996
Time : 03:54:48 P.M.
Filed & Recorded in
Official Records
of El Paso County, TX
HONORABLE HECTOR ENRIQUEZ, JR
COUNTY CLERK
Rec. \$ 13.00

ANY PROVISIONS HEREIN WHICH RESTRICTS THE SALE, REFINANCE,
OR USE OF THE DESCRIBED REAL PROPERTY BECAUSE OF COLOR
OR RACE IS INVALID AND UNENFORCEABLE UNDER FEDERAL LAW
STATE OF TEXAS
COUNTY OF EL PASO
I hereby certify that this instrument was filed on the date and time
stamped herein by me and was duly recorded in the volume and page
of the Official Public Record of Real Property El Paso County, Texas.

JUL 2 1996



[Handwritten signature]

EL PASO COUNTY, TEXAS

Return to:
Hail Eugene Dixon
801 Texas
El Paso, Texas 79901

94-87802

LT # 94-3351
106-47⁰⁰

WARRANTY DEED WITH VENDOR'S LIEN

STATE OF TEXAS)
)
COUNTY OF EL PASO)

KNOW ALL MEN BY THESE PRESENTS:

That UNION MANUFACTURING COMPANY (*Grantor*) for an adequate consideration to it in hand paid and agreed to be performed by HARL E. DIXON (*Grantee*), whose address is 187 North Old Pueblo Road, El Paso, Texas 79907, as follows:

- (1) Ten Dollars (\$10.00) cash and other valuable consideration;
- (2) Two Hundred Seventy-Five Thousand and No/100 Dollars (\$275,000.00) by Grantee's execution and delivery of a Promissory Note in that amount payable to the order of Bank of the West, bearing interest and payable as provided in said Note; which Note is secured by a Vendor's Lien retained herein and by a Deed of Trust of even date from Grantee to Sol Litt, V, Trustee for Bank of the West;

has GRANTED, SOLD and CONVEYED and by these presents, does hereby GRANT, SELL and CONVEY unto the said Grantee all that certain parcel of land situated in El Paso County, Texas, and more particularly described as follows:

Lots 1 through 5, Block 227, CAMPBELL ADDITION, an addition to the City of El Paso, El Paso County, Texas.

TO HAVE AND TO HOLD the above-described premises together with all and singular the rights and appurtenances thereto in anywise belonging unto the said Grantee, his heirs, administrators, representatives, executors, successors and assigns forever, and Grantor does hereby bind itself, its successors and assigns to warrant and forever defend, all and singular, the said premises unto the said Grantee, his heirs, administrators, representatives, executors, successors and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof.

IT IS EXPRESSLY AGREED AND STIPULATED that a Vendor's Lien in favor of Bank of the West is retained against the above-described property, premises and improvements until the Promissory Note described under subparagraph (2) hereinabove and all interest thereon has been fully paid according to its face, tenor, effect and reading when this Deed shall become absolute.

IN WITNESS WHEREOF this Warranty Deed with Vendor's Lien is executed this the 12TH day of DECEMBER, 1994.

UNION MANUFACTURING COMPANY

By: Albert P. Harris
Name: ALBERT P. HARRIS
Title: President

STATE OF TEXAS §
 §
COUNTY OF EL PASO §

This instrument was acknowledged before me on DECEMBER _____, 1994, by _____, _____ of Union Manufacturing Company, a _____ corporation, on behalf of said corporation.

Notary Public in and for the
State of Texas
My commission Expires: _____

After recording, return to:
Harl E. Dixon
187 North Old Pueblo Road
El Paso, Texas 79907

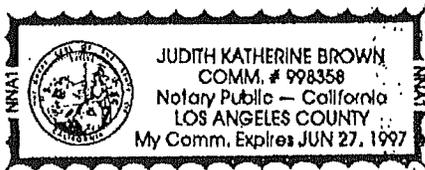
MJH-119979.1
008690-00411

STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

On December 13, 1994, before me, Judith Katherine Brown, Notary Public, personally appeared Albert P. Harris, personally known to me OR proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) (is) are subscribed to the within instrument and acknowledged to me that (he)/she/they executed the same in (his)/her/their authorized capacity(ies), and that by (his)/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.



Judith Katherine Brown

Signature of Notary

94-87802

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FILED FOR RECORD
IN MY OFFICE

94 DEC 16 P 3:50

H. C. [Signature]
COUNTY CLERK
EL PASO COUNTY, TEXAS

ANY PROVISIONS HEREIN WHICH RESTRICTS THE SALE, RENTAL
OR USE OF THE DESCRIBED REAL PROPERTY BECAUSE OF COLOR
OR RACE IS INVALID AND UNENFORCEABLE UNDER FEDERAL LAW
STATE OF TEXAS

COUNTY OF EL PASO
I hereby certify that this instrument was filed on the date and time
stamped herein by me and was duly recorded in the volume and page
of the Official Public Record of Real Property El Paso County, Texas.
DEC 16, 1994



EL PASO COUNTY, TEXAS

H. C. [Signature]

AFTER RECORDING
Return to:
HARL E. DIXON
P. O Box 17913
EL PASO TEXAS
79917

CONTRACT OF SALE

between

HARL E. DIXON

SELLER

AND

CITY OF EL PASO, TEXAS

BUYER

FOR THE SALE AND PURCHASE OF

**801-811 TEXAS AVENUE
EL PASO, TEXAS**

CONTRACT OF SALE

This Contract of Sale (the *Contract*) is made and entered into as of the Effective Date by and between HARL E. DIXON (*Seller*), and CITY OF EL PASO, TEXAS (*Buyer*).

ARTICLE I DEFINED TERMS

1.1 **Definitions.** As used herein, the following terms have the meanings set forth below:

"Business Day" means any day, other than a Saturday or Sunday, on which national banks in El Paso, Texas, are open for business.

"Earnest Money Deposit" means the \$100,000, plus any accrued interest thereon, deposited by Buyer in escrow with the Title Company.

"Effective Date" means the latter of the dates of execution of this Contract by the last of either Seller or Buyer, such date being inserted below the signatures of Buyer and Seller.

"Improvements" means the buildings and other improvements located on the Land and all fixtures and other property owned by Seller that is affixed to the Land.

"Inspection Period" means the period commencing on the Effective Date and ending October 26, 2012.

"Land" means that certain tract of land located in El Paso County, Texas, described as Lots 1 through 8, Block 227, CAMPBELL'S ADDITION, an Addition in the City of El Paso, El Paso County, Texas, according to the City Block Map in the Office of the County Clerk of El Paso County, Texas, appended hereto, together with all rights appurtenant thereto.

"Personal Property" means with respect to any portion of the Land or the Improvements, all (i) overhead lights, evaporative coolers, heaters, electrical conduits, and toilet fixtures, used in connection with the ownership, maintenance or operation of the Land or the Improvements; (ii) all plans and specifications, if any, in the possession of Seller which were prepared in connection with the construction or renovation of any of the Improvements; (iii) to the extent in effect and transferable to Buyer, all licenses, permits and warranties; and (iv) any historical photographs of the interior of the 801 Texas Avenue Building dating from prior to Seller's ownership of the Property.

"Property" means, collectively, the Land, Improvements and the Personal Property.

"Purchase Price" means the \$2,300,000 total consideration to be paid by Buyer to Seller for the purchase of the Property.

"Seller's Personal Property" means Seller's equipment used in his Galleria San Ysidro business, signage, furniture, furnishings, business supplies, building and manufacturing materials and supplies, containers of chemicals, cleaning materials, paints and solvents, inventory, objects, wares, and articles of merchandise.

"Title Company" means Stewart Title Company, 415 N. Mesa Street El Paso, Texas, 79901 Attn: Cindy Bilbe, President.

1.2 **Other Defined Terms.** Certain other defined terms have the respective meanings assigned to them elsewhere in this Contract.

**ARTICLE II
AGREEMENT OF PURCHASE AND SALE**

On the terms and conditions stated in this Contract, Seller hereby agrees to sell and convey to Buyer, and Buyer hereby agrees to purchase and acquire from Seller, the Property.

**ARTICLE III
PURCHASE PRICE**

3.1 **Purchase Price.** The combined purchase price to be paid by Buyer for the Property is a total of \$2,300,000 consisting of \$1,800,000 for the property municipally known as 801 Texas Avenue and \$500,000 for the property municipally known as 811 Texas Avenue (the "**Purchase Price**"). The Purchase Price, net of all prorated amounts allocated to Seller as set forth in this Contract, shall be payable to Seller through the Title Company at the Closing by wire transfer of immediately available federal funds.

3.2 **Earnest Money Deposit.** Within 3 Business Days following the Effective Date, Buyer shall deposit with the Title Company the sum of One Hundred Thousand and 00/100 Dollars (\$100,000.00) by wire transfer of immediately available federal funds, as Earnest Money (the "**Earnest Money Deposit**"). The Earnest Money Deposit shall become nonrefundable to Buyer only if Buyer has not terminated this Contract under any of the following: (i) during the Inspection Period; or (ii) within 5 days after the expiration of the Cure Period as provided in Section 5.4.) or (iii) under Article IV below. The Earnest Money Deposit shall be held by the Title Company in escrow to be applied or disposed of as provided in this Contract, and shall be invested in an interest-bearing account at a financial institution in El Paso, Texas, reasonably acceptable to Seller and Buyer, and all interest earned thereon shall become a part thereof. If the purchase and sale hereunder are consummated in accordance with the terms of this Contract, the entire \$100,000.00 Earnest Money Deposit plus interest shall be applied to the Purchase Price at Closing.

**ARTICLE IV
BASEBALL CONTINGENCIES**

4.1 **Contingencies.** Notwithstanding anything to the contrary in this Contract, in no event shall Buyer be required to purchase the Property unless all of the following events occur during the Inspection Period (hereinafter referred to as the "Baseball Contingencies"):

(a) The Pacific Coast League, the National Association of Professional Baseball Leagues, Inc. and any other Minor League Baseball organization (as required) approves the purchase of the Triple A Minor League Baseball franchise by Mountain Star Sports Group, LLC-El Paso Baseball Club Series; and authorizes the re-location of such team to El Paso, Texas;

(b) The El Paso City Council approves, and all necessary parties execute, the ballpark development agreement concerning the development of the City owned land for a ballpark in the area of the current City Hall;

(c) The El Paso City Council approves, and all necessary parties execute, the Lease Agreement for the ballpark to be constructed; and

(d) The El Paso City Council approves, and all necessary parties execute, a non-relocation agreement with respect to the Triple A baseball team; (the agreements referenced in paragraphs (b) – (d) are referred to herein as the “Ballpark Agreements”).

4.2 **Termination Right.** If any or all of the Baseball Contingencies are not met by the end of the Inspection Period or any of the Ballpark Agreements terminate prior to the end of the Inspection Period, Buyer shall have the right to terminate this Contract by written notice to Seller prior to the expiration of the Inspection Period and all of the Earnest Money plus any accrued interest shall be refunded to Buyer.

ARTICLE V TITLE AND SURVEY AND INSPECTION

5.1 **Title Commitment.** Buyer acknowledges receipt of a title commitment for Title Insurance for the Property. Within 3 days following the Effective Date, Seller agrees to order, at Seller's sole cost and expense, an updated commitment for Title Insurance for the Property (the “**Title Commitment**”), and a UCC search at Seller's sole cost and expense, copies of which shall be furnished to the other party. The Title Commitment shall contain the express commitment of the Title Company to issue a Texas Form T-1 Owner Policy of Title Insurance for the Property, which shall otherwise be in form and content consistent with Section 5.5 hereof. The Title Commitment shall be accompanied by copies of all instruments that create or evidence title exceptions affecting the Property.

5.2 **Survey.** Seller has previously provided Buyer with a copy of the most recent survey of the Land in Seller's possession and control dated June 27, 1996 for the 811 Texas property (the “**Existing Survey**”). Seller has been unable to locate an existing survey for the 801 Texas property. Within ten (10) days of the Effective Date, Buyer shall obtain a new survey at Buyer's cost (the “**New Survey**”) of the Property describing the Property as one contiguous parcel and shall provide Seller and the Title Company with copies upon receipt. The parties agree that the New Survey must satisfy the following requirements unless waived in writing by Buyer: The New Survey shall (i) be an accurate Category 1A Land Title Survey of the Property by a surveyor registered under the laws of the State of Texas, which New Survey shall be prepared in accordance with the *Manual of Practice for Land Surveying in Texas* and shall show the number of acres contained in the Property to the nearest one thousandth (1/1000th) of an acre; (ii) contain a legally sufficient description of the metes and bounds of the Property; (ii) be dated no more than 90 days prior to the Closing Date and (iii) certified to Seller, Buyer and the Title Company. Buyer may choose to use the legal description of the Land contained in the New Survey for purposes of describing the Property in the warranty deed conveying to Buyer title to the Property.

5.3 **Review of Title Commitment and Survey.** Buyer shall have a period of 10 days following its receipt of the Title Commitment, the New Survey and UCC Search (the “**Title Review Period**”) in which to review the Title Commitment, the New Survey, and UCC Search and give written notice to Seller specifying Buyer's objections, if any, to the Title Commitment, the New Survey or UCC Search (the “**Buyer's Objection Letter**”). Buyer is deemed to have received the New Survey on the earlier of (i) the date Buyer actually receives the New Survey or (ii) the deadline to obtain a New Survey in Section 5.2. If Buyer fails to give the Buyer's Objection Letter to Seller prior to the expiration of the Title Review Period, then all exceptions to title shown on Schedules B and C of the Title Commitment are deemed to be Permitted Exceptions. Notwithstanding the foregoing, Seller agrees that he must, at or prior to Closing, discharge any and all mortgages, delinquent taxes, mechanics liens, judgments and other

monetary encumbrances incurred by Seller or recorded of record on the Property (excluding mechanic's and similar liens filed as a result of Buyer's Inspections) and susceptible of discharge by the payment of money where the amount required to be paid by Seller to discharge same is liquidated, fixed or ascertainable from the public records.

5.4 Seller' Obligation to Cure; Buyer's Right to Terminate. If Buyer delivers to Seller the Buyer's Objection Letter before the end of the Title Review Period, then Seller may, but is not obligated to, within 5 business days of the date of receipt of such letter (the "Cure Period"), give written notice ("Seller's Title Cure Notice") to Buyer of Seller's intention to satisfy none, some or all of Buyer's objections. Except as set forth in Section 5.3 above, it is expressly understood that in no event shall Seller be obligated or required to bring any action or institute any proceeding, or to otherwise incur any costs or expenses in order to attempt to eliminate any matter contained in Buyer's Objection Letter. If Seller fails to timely give Buyer the Seller's Title Cure Notice or if Seller fails or refuses to satisfy any or all of Buyer's objections, then Buyer shall notify Seller in writing within 5 business days after the expiration of the Cure Period, that either:

(a) Buyer waives its right to further object to any objections it has asserted which Seller has failed or refused to satisfy in which event those objections asserted by Buyer shall be deemed Permitted Exceptions and waived by Buyer and the parties shall proceed to close this transaction; or

(b) Terminate this Contract, in which event the Title Company shall return to Buyer the Earnest Money Deposit as provided herein, and Seller and Buyer shall have no further obligations, one to the other, with respect to the subject matter of this Contract except as otherwise provided herein.

If Buyer fails to exercise such option in accordance with the preceding sentence, then Buyer is deemed to have elected option (a) of the preceding sentence.

5.5 Title Policy. At the Closing, or as soon thereafter as the Title Company can issue the same, Seller shall cause, at Seller's sole cost and expense, a standard T-1 form Owner Policy of Title Insurance (the "Title Policy") to be furnished to Buyer by the Title Company. The Title Policy shall be issued by the Title Company and shall insure that Buyer has good and indefeasible fee simple title to the Property, subject only to the Permitted Exceptions. The Title Policy shall contain no exceptions other than Permitted Exceptions and shall provide that:

(a) The survey exception may be amended, at Buyer's expense, to except only "shortages in area";

(b) The tax exception shall be limited to taxes for the year of Closing and subsequent years not yet due and payable; and

(c) Unless waived by Buyer, all exceptions, conditions, or requirements described in Schedule C of the Title Commitment shall be released and satisfied prior to or at Closing and such items and requirements shall not be exceptions to the Owner Title Policy to be provided by Seller.

5.6 Inspection and Buyer's Right to Terminate. Buyer, at Buyer's expense, shall have the right during the Inspection Period to make such physical examinations, studies, appraisals, inspections, engineering, environmental and insurance underwriting tests and investigations (the "Inspections") of the

Property as Buyer may deem advisable. Buyer has the right to terminate this Contract within its sole discretion by written notice to Seller prior to midnight of the last day of the Inspection Period.

(a) Seller shall cooperate with Buyer in making the Property available for Buyer's Inspections. Buyer may also reinspect the Property prior to Closing to verify that the Property has remained in similar physical shape, ordinary wear and tear excepted, as the Property was during the Inspection Period, and that all of Seller's Personal Property is removed from the Property (except if Seller has exercised the Rent Option in Section 8.5). All inspection fees, appraisal fees, engineering fees and other costs and expenses of any kind incurred by Buyer relating to such inspection and its other due diligence shall be at the sole cost and expense of Buyer. If the City determines that limited testing of materials or soils is required for its environmental assessment, prior to the testing a specific written request must be delivered to Seller detailing the area of testing and the procedure to be used. Only after Seller approves the scope and location of the testing may it be conducted, with Seller's approval not to be unreasonably withheld or delayed. If any inspection or test disturbs the Land or Improvements and the Closing does not occur, Buyer will restore the Land and/or Improvements to the same condition as existed before the inspection or test.

(b) Buyer agrees to be responsible and liable for any damages, including mechanic's and materialmen's liens, caused or arising out of or in connection with Buyer's Inspections of the Land and/or Improvements. Buyer is self-insured, but Buyer shall require its third party representatives, agents, consultants and contractors ("**Buyer Representatives**") entering upon the Property for any purpose to obtain and maintain during in the Inspection Period general liability insurance in an amount not less than \$1,000,000 and property damage insurance in an amount not less than \$1,000,000, and worker's compensation insurance, with an insurance carrier which is licensed in the State of Texas. Insurance certificates naming Seller as an additional named insured must be in the possession of Seller prior to any entry by any Buyer Representative on the Property and all required coverages must be in full force and effect throughout the Inspection Period, and if Buyer elects to acquire the Property, through and including the Closing Date. The provisions of this Section shall survive the Closing or the earlier termination of this Contract. Buyer shall provide Seller with copies of all documents, tests and reports generated from Buyer's Inspection within 3 Business Days following receipt by the City, at no charge.

(c) Buyer agrees that all information it obtains regarding the environmental and physical condition of the Property ("**Evaluation Material**") will be used solely for the purpose of evaluating whether to purchase the Property and/or performing its due diligence and agrees that all such information will be kept confidential by Buyer except to the extent disclosure of such information (i) has been consented to by Seller or (ii) is made to Buyer Representatives who need to know such information in connection with the proposed transaction. Notwithstanding anything to the contrary contained herein, however, nothing herein shall prevent the Buyer from disclosing the Evaluation Material to the extent the Buyer is required to do so by applicable law.

(d) If Buyer terminates this Contract during the Inspection Period, or within 5 days after the expiration of the Cure Period, or during the Inspection Period based on the Baseball Contingencies, then the Earnest Money Deposit shall be returned to Buyer, and thereafter Seller and Buyer shall have no further obligations to each other with respect to the subject matter of this Contract except as otherwise expressly provided herein.

**ARTICLE VI
REPRESENTATIONS, WARRANTIES, COVENANTS,
AND AGREEMENTS OF SELLER**

6.1 **Representations and Warranties of Seller.** To the best of Seller's actual knowledge, and except for the knowledge Seller may have received from Buyer or Buyer's consultants or that Buyer has received from Buyer's consultants, Seller makes the following representations and warranties which are true and accurate as of the date of this Agreement and as of Closing:

- (a) No litigation is pending or threatened against Seller with respect to the Property or Seller's interest therein, or which would inhibit Buyer obtaining clear title to the Property.
- (b) There are no unrecorded leases that will continue after Closing, or options, contracts (other than Otis Elevator, El Paso Disposal and utilities), or rights of first refusal affecting or relating to the Property in any way.
- (c) The Property will remain in the condition existing as of the execution of this Agreement until Closing (other than reasonable wear and tear and casualty) and all of Seller's Personal Property will be removed from the Property prior to Closing, subject to paragraph 8.5 below.

The representations and warranties in this Section 6.1 shall expressly survive Closing.

6.2 **Agreements of Seller.** Seller covenants and agrees with Buyer as follows:

- (a) **Ownership Documents.** Within 5 Business Days following the Effective Date, Seller shall deliver to Buyer the following items (the "Ownership Documents") with respect to the Property, to the extent in the possession or under the reasonable control of Seller and to the extent that Seller has not already delivered them to Buyer:
 - (i) A copy of the Existing Survey; and floor plans and elevations, if any, prepared with respect to the Property;
 - (ii) Copies of the El Paso Disposal and Otis Elevator Contracts.
 - (iii) A copy of the Phase I Environmental Site Assessment dated November 15, 1994 (The "Existing Phase I") and Seller's Material Safety Data Sheets, copies of which have been provided to Buyer's consultant;
 - (iv) A copy of the two roof warranties that Seller has given to Buyer. If assignable, Buyer agrees to be responsible for any fee required by the warrantor for any assignment of the warranties to Buyer.

If the parties fail to consummate the transaction described herein for any reason other than the Seller's default, Buyer agrees to return to Seller all materials delivered by or on behalf of Seller pursuant to or in connection with this Contract within 5 Business Days of such event.

- (b) **Operations Until Closing.** From the Effective Date until the Closing Date, Seller undertakes and agrees, with respect to the Property, that he will:

- (i) Work diligently to remove all of Seller's Personal Property out of the Property. Maintain the Property in accordance with his usual and customary practice.
- (ii) Not encumber, sell, exchange, transfer, assign, convey or otherwise dispose of all or any part of the Property or any interest therein; and
- (iii) Not execute any new lease or agree to the terms of any lease renewal.

6.3 **Survival Beyond Closing.** The representations, warranties, undertakings and agreements of Seller contained herein survive the Closing and are not merged therein.

6.4 **As-Is Purchase.** EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES SET FORTH IN THIS CONTRACT AND IN THE DOCUMENTS THAT ARE EXECUTED IN CONNECTION HEREWITH, BUYER EXPRESSLY AGREES THAT SELLER IS SELLING THE PROPERTY AND BUYER IS ACQUIRING THE PROPERTY IN ITS STRICT "AS IS, WHERE IS" CONDITION, AND "WITH ALL FAULTS". Other than the specific representations contained in this Contract and any warranty of title contained in the deed and bill of sale delivered at Closing, Seller disclaims any and all representations and warranties, including, without limitation, any warranty or representation as to fitness for any particular purpose, merchantability, design, quality, condition, operation or income, absence of defects, absence of hazardous or toxic substances, absence of faults, flooding, or compliance with laws and regulations including, without limitation, those relating to health, safety and the environment. The provisions of this paragraph will survive indefinitely any closing or termination of this contract, shall not be merged into the closing documents and will be placed in the deed from Seller to Buyer. Buyer acknowledges receipt of Seller's Existing Survey and Existing Phase I. The Existing Survey and Existing Phase I are provided "as is" and with no representation or warranty as to accuracy or completeness.

ARTICLE VII REPRESENTATIONS, WARRANTIES OF BUYER

7.1 **Buyer's Representations.** Buyer hereby represents and warrants to Seller as of the date of this Contract and as of the Closing Date as follows:

- (a) Upon approval of this Contract by the El Paso City Council, Buyer will have the full right, power, and authority to purchase the Property from Seller as provided in this Contract and to carry out Buyer's obligations under this Contract.
- (b) Upon approval of this Contract by the El Paso City Council, this Contract will constitute the legal, valid and binding obligation of Buyer and will be enforceable against Buyer in accordance with its terms.

7.2 **Survival Beyond Closing.** The representations, warranties, undertakings and agreements of Buyer contained herein survive the Closing and are not merged therein.

ARTICLE VIII CLOSING

8.1 **Date and Place of Closing.** Provided that Buyer has not terminated this Contract as herein provided and all of the other conditions of this Contract shall have been satisfied prior to or on the

Closing Date, the Closing of this transaction shall take place at 10:00 a.m. local time at the offices of the Title Company on November 12, 2012 (the "Closing Date").

8.2 Items to be Delivered at Closing.

(a) **Seller.** At the Closing, Seller shall deliver or cause to be delivered to Buyer or the Title Company, the following items fully executed and acknowledged where so indicated by all necessary parties in respect to the Property:

- (i) The Title Policy, in the form specified in Section 5.5 hereof;
- (ii) A Special Warranty Deed (the "Deed"), duly executed and acknowledged by Seller, conveying title to the Land and Improvements, in substantially the form of **Exhibit A** appended hereto, subject only to the Permitted Exceptions;
- (iii) A Bill of Sale for any Personal Property in substantially the form of **Exhibit B** appended hereto;
- (iv) An affidavit, in compliance with Section 1445 of the Internal Revenue Code of 1986, as amended, and any regulations promulgated thereunder, stating under penalty of perjury the Seller's United States identification number and that each of Seller is not a "foreign person" as that term is defined in Section 1445, duly executed and acknowledged by Seller;
- (v) All keys or other access devices in the possession of Seller or his agents to the locks located at the Property; and
- (vi) Any other items reasonably requested by the Title Company as administrative requirements for consummating the Closing.

(b) **Buyer.** At the Closing, Buyer shall deliver or cause to be delivered to Seller or the Title Company, the following items:

- (i) The Purchase Price, less the Earnest Money and any interest being held by the Title Company which is applicable to the Purchase Price, payable by wire transfer as required by Section 3.1 hereof;
- (ii) Appropriate evidence of authorization reasonably satisfactory to Seller and the Title Company for the consummation of the transaction contemplated by this Contract;
- (iii) Buyer shall execute the Deed;
- (iv) Any other items reasonably requested by the Title Company as administrative requirements for consummating the Closing.

8.3 Prorations. The following items shall be adjusted or prorated between Seller and Buyer as set forth below:

(a) **Taxes.** General real estate taxes for the then current year relating to the Property shall be prorated as of midnight preceding the Closing Date, with no taxes being due after the Buyer takes title. All special taxes or assessments assessed prior to the Closing Date shall be paid by Seller.

(b) **Insurance Premiums.** There is no proration of insurance premiums.

(c) **Utility Expenses.** All public utility charges are prorated as of the Closing Date. To the extent that information for any such proration is not available at the Closing, the parties shall effect such proration within 30 days after Closing.

8.4 Recalculation of Prorations. In the event the Closing does not occur and fund as of 12:00 noon, local time, on the Closing Date, all prorations shall extend to the midnight of the following day.

8.5 Possession. Possession of the Property shall be delivered to Buyer by Seller at the Closing, unless Seller exercises the option to remain in the 801 Texas Avenue portion of the Property for one week after Closing in which event a short term lease agreement with consideration reasonably acceptable to Buyer and Seller must be executed at Closing (the "Rent Option"). If all of Seller's Personal Property is not vacated from the Property by midnight of either (i) the day of Closing and funding if the Rent Option is not exercised; or (ii) the last day of the week following Closing if the Rent Option is exercised, then after 24 hours written notice by Buyer to Seller specifying what of Seller's Personal Property has not been removed, if any of Seller's Personal Property still remains in the Property the parties agree that Seller may charge Buyer \$1,000 per day of failure to vacate. If after 15 days Seller has not removed all of Seller's Personal Property, Buyer shall have the further right to remove Seller's Personal Property, dispose of it as if it belonged to Buyer, and use the proceeds to offset the \$1,000 a day penalties and Buyer's removal costs.

8.6 Costs of Closing. Each party is responsible for paying the legal fees of their respective counsel in negotiating, preparing, and closing the transaction contemplated by this Contract. Seller shall pay for the premium for Title Policy, UCC searches, all real estate tax searches, and releases of any lien. Buyer shall pay for the cost of the New Survey, the UCC search, its own engineering and environmental inspections as well as for the charges attributable to recording the Deed. The parties shall split the cost of any Title Company escrow fees. Any other expenses that are incurred by either party that are expressly identified herein as being the responsibility of a particular party shall be paid by such party. All other expenses are allocated between the parties in the customary manner for sales of real property similar to the Property in El Paso County, Texas.

8.7 Provisions of Article VIII to Survive Closing. The provisions of this Article VIII survive the Closing.

ARTICLE IX DEFAULTS AND REMEDIES

9.1 Default of Buyer. If the Buyer has not terminated this Contract pursuant to any of the provisions hereof authorizing such termination, and Buyer defaults hereunder and fails to perform any of the covenants and/or agreements contained herein which are to be performed by Buyer, Seller shall be entitled to receive the Earnest Money Deposit as Seller's sole and exclusive remedy, as liquidated damages (plus Seller's reasonable attorney's fees and costs if necessary to collect same), due to the inconvenience of ascertaining and measuring actual damages, and the uncertainty thereof. Seller waives any rights which he may have to damages or specific performance as a result of Buyer's default under this

Contract, provided however that this provision will not waive or affect Buyer's obligations to return or provide to Seller documents, reports or other information provided to, or prepared by or for, Buyer pursuant to applicable provisions of this contract.

9.2 Default of Seller. If Seller fails or refuses to consummate the sale of the Property to Buyer pursuant to this Contract at the Closing, or Seller fails to perform any of his other obligations hereunder for any reason other than Buyer's failure to perform Buyer's obligations under this Contract, then Buyer may either (i) bring an action against the Seller for specific performance of the Seller's obligations under this Contract and have Seller pay Buyer's attorney's fees and costs if specific performance is granted, provided that any such action for specific performance shall be filed no later than 6 months from the date specified herein for Closing, or (ii) terminate this Contract by giving written notice thereof to Seller and the Title Company and get Buyer's Earnest Money Deposit back, and, in addition to a return of the Earnest Money, if Seller's default is a failure to close at Closing when Buyer is ready, willing and able to close, Seller shall be liable to Buyer in the amount of \$50,000 as an agreed upon liquidated damages amount (plus Buyer's reasonable attorney's fees and costs if necessary to collect same), due to the inconvenience of ascertaining and measuring actual damages, and the uncertainty thereof.

9.3 Effect of Termination. Upon termination of this Contract under this Section 9 or pursuant to any other provision of this Contract, no party thereafter shall have any further obligations to the other hereunder except for the payment of any sums or damages upon termination as provided herein and except for any covenants and obligations which expressly survive such termination.

ARTICLE X BROKERAGE COMMISSIONS

10.1 Brokerage Commission. Seller is solely responsible for paying the commission of Karam Company, Stan Okies and any other broker hired by Seller on the 801 Texas Avenue property, pursuant to the terms of such commission agreement. Seller represents that he has not hired any broker for the 811 Texas Avenue property. Buyer is responsible for paying the fee of its consultants.

10.2 Representations Concerning Brokerage Commission. Seller hereby represents and warrants to Buyer that he has not contracted or entered into any agreement with any real estate broker, agent, finder, or any other party in connection with this transaction, and that Seller has not taken any action which would result in any real estate broker's, finder's, or other fees or commissions being due or payable to any other party with respect to the transaction contemplated hereby.

ARTICLE XI CASUALTY OR CONDEMNATION

11.1 Right of Termination. Seller agrees to give Buyer and Title Company prompt notice of any fire or other casualty affecting the Property or of any actual or threatened taking or condemnation of all or any portion of the Property by an entity other than Buyer. If, prior to the Closing, there shall occur damage to the Property caused by fire or other casualty, then Buyer shall have the right to postpone the Closing Date or terminate this Contract by written notice delivered to Seller within 30 days after Buyer has received notice from Seller of that event or the date of the fire or other casualty or Seller's receipt of notice of taking or condemnation, whichever shall first occur. If this Contract is terminated pursuant to this Section 11.1, the Earnest Money Deposit shall be returned to Buyer and the parties shall have no further obligations under this Contract or to each other with respect to the subject matter of this Contract.

Notwithstanding the foregoing, in the event that the cost of repairing or restoring such damage shall be covered by available insurance and such cost shall be less than \$10,000, then Buyer shall proceed to Closing and Seller shall assign at Closing to Buyer his right, title and interest in the insurance proceeds available to repair or restore the damage or destruction and to any applicable rent loss insurance and, in addition, Seller shall credit the Purchase Price with the amount of any deductible under such insurance policy(s).

11.2 **Postponement of Closing.** In the event that Buyer gives notice to postpone the Closing Date pending a determination of the nature and extent of such damage or destruction and the availability and adequacy of insurance proceeds, the postponement shall be in effect for an additional 20 days after the 30 day period that Buyer has to give notice of its desire to postpone (the *Damages Determination Period*).

11.3 **Insurance for Repair.** If the cost to repair or replace the damage is reasonably estimated by the Seller's insurance adjuster to exceed \$10,000, then at Buyer's election and in its sole discretion, Buyer may elect to proceed with the Closing and at the Closing, Seller shall assign to Buyer his right, title and interest in the insurance proceeds available to repair or restore the damage or destruction and to any applicable rent loss proceeds, and Seller shall credit the Purchase Price with the amount of any deductible under such insurance policy(s).

ARTICLE XII MISCELLANEOUS

12.1 **Notices.** All notices, demands, requests, and other communications required or permitted hereunder shall be in writing, and shall be deemed to be delivered: (i) the same day as the email sent by to the recipient and recipient's legal counsel at the email addresses below, so long as the recipients confirm receipt on the same day the original email was sent; (ii) if personally delivered, upon receipt; (iii) if sent by expedited prepaid reputable overnight delivery, the next business day after delivery to such service; and (iv) if sent by United States registered or certified mail, return receipt requested, postage prepaid, 3 days after having been deposited in the United States Postal Service, properly addressed as follows (or at such other address and person as shall be designated from time to time by any party hereto, as the case may be, in a written notice to the other party in the manner provided for in this Section):

Seller:	Harl E. Dixon 801 Texas Ave. El Paso, Texas 79901 email: gsyinc@att.net	Copy: Michael J. Hutson 5809 Acacia Circle El Paso, Texas 79912 email: mhut@acaciapark.com
Buyer:	City Manager City of El Paso 2 Civic Center Plaza El Paso, Texas 79901-1196 email: wilsonja@elpasotexas.gov	Copy: Risher S. Gilbert 201 E. Main St. Suite 1501 El Paso, Texas 79901 email: rgilbert@gilbertlf.com

12.2 **Governing Law.** This Contract is being executed and delivered, and is intended to be performed, in the State of Texas, and the laws of Texas shall govern the validity, construction, enforcement, and interpretation of this Contract. This Contract is performable in, and the exclusive venue for any action brought with respect hereto shall lie in El Paso County, Texas, where the Property is located.

12.3 **Entirety and Amendments.** This Contract embodies the entire agreement between the parties and supersedes all prior agreements and understandings, if any, relating to the Property, and may be amended or supplemented only by an instrument in writing executed by the party against whom enforcement is sought.

12.4 **Parties Bound.** This Contract is binding upon and inure to the benefit of Seller and Buyer, and their respective permitted successors and assigns.

12.5 **Saturday, Sunday or Legal Holiday.** If any date set forth in this Contract for the performance of any obligation by Buyer or Seller or for the delivery of any instrument or notice should be on other than a Business Day, the compliance with such obligations or delivery is deemed accepted on the next following Business Day.

12.6 **Time is of the Essence.** It is expressly agreed by Seller and Buyer that time is of the essence with respect to this Contract.

12.7 **Exhibits.** The Exhibits which are referenced in, and attached to, this Contract are incorporated in and made a part of this Contract for all purposes.

12.8 **Expiration of Offer.** The execution by the Buyer hereto and delivery to the Seller of an executed counterpart of this Contract shall constitute an offer to sell the Property upon the terms stated herein. If a counterpart of this Contract executed by the Seller is not approved by the City Council of the City of El Paso and executed by the Buyer within 5 days thereafter without modification, the offer contained in this Contract shall be null and void.

12.9 **Severability.** If for any reason any provision of this Contract is held to violate any applicable law, and so much of this Contract is held to be unenforceable, then the invalidity of such specific provision shall not be held to invalidate any other provision of this Contract which shall remain in full force and effect.

12.10 **Assignment.** Buyer may assign this Contract in whole, but not in part, without Seller's consent, provided, however, Buyer shall give Seller written notice of any such assignment not less than five (5) Business Days prior to such assignment together with a copy of the assignee's written agreement to assume and perform the obligations of Buyer hereunder, in which event Buyer shall have no further obligations under this Contract. This Contract shall be binding upon and inure to the benefit of the respective successors and assigns of the parties.

12.11 **Multiple Counterparts.** This Contract may be executed in any number of counterparts, all of which taken together shall constitute one and the same agreement, and either of the parties hereto may execute this Contract by signing any such counterpart.

12.12 **Electronic Signature.** Delivery of an executed counterpart signature pages of the Contract by facsimile or electronic mail is effective as delivery of an original of an executed counterpart signature page.

12.13 **Tax Deferred Exchange.** Buyer acknowledges that Seller may effect the sale of the Property pursuant to the applicable provisions of Section 1031 of the Internal Revenue Code of 1986, as amended. Buyer agrees that Seller may effect such sale of the Property through a Section 1031 "Qualified Intermediary" in order to complete a tax deferred exchange, and that Seller may assign and transfer his rights and obligations under this Contract to such Qualified Intermediary for such purpose.

Buyer agrees to reasonably cooperate with Seller and/or his Qualified Intermediary in the sale of the Property pursuant to this Contract, provided (a) Buyer shall not be obligated to incur any cost, expense, or liability whatsoever, (b) the Closing shall not be extended or delayed by reason of such exchange, and (c) Buyer shall incur no liability under any document or agreement required in connection with such exchange. Seller's ability to consummate an exchange shall not be a condition to the obligations of Seller under this Contract, and Buyer does not warrant and shall not be responsible for any of the tax consequences to Seller with respect to the transactions contemplated hereunder.

12.14 No Third Party Beneficiary. Except as otherwise expressly provided herein, this Contract is not intended to give or confer any benefits, rights, privileges, claims, actions, or remedies to any person or entity as a third party beneficiary or otherwise.

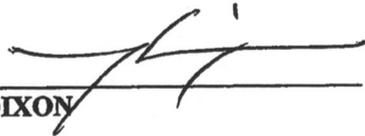
12.15 Effect of Headings. The subject headings of sections and subsections of this Contract included for purposes of convenience only, and shall not affect the construction or interpretation of any of its provisions.

12.16 Recording. Neither this Contract, nor any memorandum or evidence hereof shall be recorded in any public records without the prior written consent of Seller and Buyer and upon any such recording in the absence of such consent shall constitute a breach of this Contract by the party requesting or effecting such recording.

[Signatures Begin on Next Page]

EXECUTED by Seller the 25th day of September, 2012.

SELLER:



HARL E. DIXON

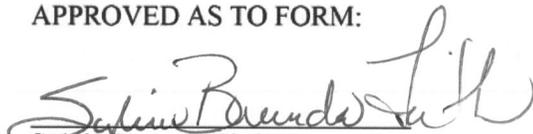
[Signatures Continue on Next Page]

EXECUTED by the City of El Paso the ___ day of October, 2012.

CITY OF EL PASO, TEXAS

By: _____
Joyce Wilson, City Manager

APPROVED AS TO FORM:


Sylvia Borunda Firth
City Attorney

APPROVED AS TO CONTENT:


Jane Tomchik
City Development, Real Estate

[Signatures Continue on Next Page]

Receipt of a fully executed copy of the Contract and a check, subject to collection for the Earnest Money Deposit received this ___ day of October, 2012.

STEWART TITLE COMPANY:

By: _____
Cindy Bilbe, President

Exhibits

- Exhibit A - Form of Warranty Deed
- Exhibit B - Form of Bill of Sale

EXHIBIT A

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.

SPECIAL WARRANTY DEED

Effective Date: _____, 2012

Grantor: HARL E. DIXON

Grantor's Mailing Address: 801 Texas Avenue, El Paso, Texas 79901

Grantee: THE CITY OF EL PASO, A MUNICIPAL CORPORATION

Grantee's Mailing Address: City of El Paso, #2 Civic Center Plaza, El Paso County, El Paso, Texas
79901-1196

Consideration: TEN and 00/100 DOLLARS (\$10.00), and other valuable consideration, receipt of which is hereby acknowledged.

Property (including any improvements):

Lots 1 through 8, Block 227, CAMPBELL'S ADDITION, an addition to the City of El Paso, El Paso County, Texas, according to the City Block Map in the Office of the County Clerk of El Paso County, Texas.

Reservations from Conveyance: None.

Exceptions to Conveyance and Warranty: See Exhibit "A" attached.

GRANT AND CONVEYANCE:

Grantor, for the Consideration and subject to the 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 way belonging, to have and to hold it to Grantee and Grantee's successors, and assigns forever. Grantor binds Grantor and Grantor's heirs, 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 claim is by, through, or under Grantor but not otherwise, except as to the Exceptions to Conveyance and Warranty.

For the same Consideration, Grantor hereby grants, sells, conveys, assigns and delivers to Grantee, all right, title and interest, if any, of Grantor, as owner of the Property in and to (i) strips or gores, if any, between the Property and abutting properties, (ii) any land lying in or under the bed of any street, alley, road or right-of-way, opened or proposed, abutting or adjacent to the Property, and (iii) any easements, rights of way, rights of ingress and egress or other interests in, on or to, any land, highway, street, road or avenue, open or proposed, in, on, across from, in front of, abutting, adjoining or otherwise appurtenant to the Property, as well as all other rights, privileges and appurtenances owned by Grantor and in any way related to the Property and other rights and interests of Grantor hereunder conveyed.

EXCEPT FOR THE WARRANTIES OF TITLE SET FORTH IN THIS DEED BUYER EXPRESSLY AGREES THAT SELLER IS SELLING THE PROPERTY AND BUYER IS ACQUIRING THE PROPERTY IN ITS STRICT "AS IS, WHERE IS" CONDITION, AND "WITH ALL FAULTS". Seller disclaims any warranties as to fitness for any particular purpose, merchantability, design, quality, condition, operation or income, absence of defects, absence of hazardous or toxic substances, absence of faults, flooding, or compliance with laws and regulations including, without limitation, those relating to health, safety and the environment.

When the context requires, singular nouns and pronouns include the plural.

GRANTOR:

HARL E. DIXON

STATE OF TEXAS §
 §
COUNTY OF EL PASO §

This instrument was acknowledged before me on the ____ day of _____, 2012, by Harl E. Dixon.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the ____ day of _____, 2012.

Notary Public in and for the State of Texas
My Commission expires: _____

EXHIBIT B

BILL OF SALE

Harl E. Dixon ("Seller"), in consideration of Ten and 00/00 Dollars (\$10.00), the receipt and sufficiency of which are hereby acknowledged, does hereby grant and convey, transfer, and set over to the City of El Paso, Texas ("Buyer"), all of the personal property described below (the "Personal Property") located at, on and about the real estate municipally known as 801-811 Texas Avenue, El Paso, Texas (the "Property"):

(i) overhead lights, evaporative coolers, heaters, electrical conduits, and toilet fixtures, used in connection with the ownership, maintenance or operation of the Land or the Improvements; (ii) all plans and specifications, if any, in the possession of Seller which were prepared in connection with the construction or renovation of any of the Improvements; (iii) to the extent in effect and transferable to Buyer, all licenses, permits and warranties for the benefit of Seller and (iv) any historical photographs or records in Seller's possession of the interior or exterior of the buildings located on the Property dating from prior to Seller's ownership of the Property.

TO HAVE AND TO HOLD the Personal Property unto Buyer and Buyer's successors and assigns forever.

Seller has signed this Bill of Sale this ___ day of _____, 2012.

SELLER:

HARL E. DIXON