

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

DEPARTMENT: Community and Human Development

AGENDA DATE: October 29, 2013 – Introduction; November 5, 2013 – Public Hearing

CONTACT PERSON/PHONE: William Lilly/Jane Tomchik/541-4377

DISTRICT(S) AFFECTED: 5

SUBJECT:

APPROVE a resolution / ordinance / lease to do what? OR AUTHORIZE the City Manager to do what? Be descriptive of what we want Council to approve. Include \$ amount if applicable.

Approve an ordinance authorizing the City Manager to sign a contract of sale and any other necessary documents between the City of El Paso and the El Paso Collaborative for Community and Economic Development which will allow the City to convey, Lot 60, Block 33, Tierra Del Este #6, City of El Paso, El Paso County, Texas; also known as 3081 Tierra Salada, El Paso, Texas, 79938 and Lot 32, Block 32, Vista Real #3, City of El Paso, El Paso County, Texas; also known as 3525 Oxcart Run, El Paso, Texas, 79936, City of El Paso, El Paso County, Texas to the El Paso Collaborative for Community and Economic Development.

This sale is an activity under the Neighborhood Stabilization Program1 (NSP1). The purchase price for each of these properties is \$100.00. The sale is subject to the Agreement between the City of El Paso and the Collaborative requiring that the Collaborative manage the properties as rentals for persons or families with incomes at or below 120% of the AMI and/or to sell the properties to homebuyers eligible under the NSP and to comply with all applicable NSP regulations. The Collaborative may retain program income from the rentals to pay for management and maintenance but if the properties are sold, the City will receive 90% of the sale price less settlement costs.

BACKGROUND / DISCUSSION:

Discussion of the what, why, where, when, and how to enable Council to have reasonably complete description of the contemplated action.

This residential property was a previous foreclosure. The City subsequently purchased this property with NSP1 funds awarded by the Department of Housing and Urban Development (HUD). The City's NSP HUD program is designed for the City to rehabilitate a previously foreclosed or abandoned residential property and to bring the structure up to building code standards. Under this program, the affordability requirements extend for fifteen (15) years whether the properties are rented or sold.

PRIOR COUNCIL ACTION:

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

Council has previously approved sales of five other properties under this program.

AMOUNT AND SOURCE OF FUNDING:

NA

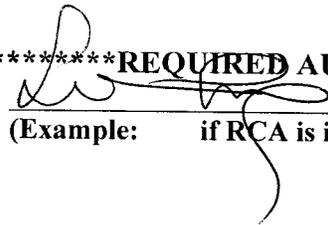
BOARD / COMMISSION ACTION:

Enter appropriate comments or N/A

NA

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

DEPARTMENT HEAD:


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

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO SIGN A CONTRACT OF SALE AND ANY OTHER NECESSARY DOCUMENTS BETWEEN THE CITY OF EL PASO AND THE EL PASO COLLABORATIVE FOR COMMUNITY AND ECONOMIC DEVELOPMENT WHICH WILL ALLOW THE CITY TO CONVEY LOT 60, BLOCK 33 TIERRA DEL ESTE #6; AND LOT 32, BLOCK 32, VISTA REAL #3, IN THE CITY OF EL PASO, EL PASO COUNTY, TEXAS (ALSO KNOWN AS 3081 TIERRA SALADA; AND 3525 OXCART RUN), TO THE EL PASO COLLABORATIVE FOR COMMUNITY AND ECONOMIC DEVELOPMENT.

WHEREAS, in conjunction with the City's Neighborhood Stabilization Program (NSP), the City of El Paso acquired and rehabilitated by use of federal funds from the U.S. Department of Housing and Urban Development (HUD) certain real property, which is legally described as: Lot 60, Block 33, Tierra Del Este #6, and Lot 32, Block 32, Vista Real #3, in the City of El Paso, El Paso County, Texas; and

WHEREAS, the City has invested federal program funds to acquire and rehabilitate the subject property for the program purpose of improving the properties for development as affordable housing for the benefit of low to moderate-income households in El Paso; and

WHEREAS, pursuant to Texas Local Government Code §272.001(g) the City is authorized to sell, exchange, or otherwise convey land or interests to an entity for the development of low-income or moderate-income housing and for less than its fair market value if the conveyance serves a public purpose and under terms and conditions of the transaction so as to effectuate and maintain the public purpose; and

WHEREAS, the City is willing to sell and convey the subject property to The El Paso Collaborative for Community and Economic Development ("The Collaborative") and The Collaborative is willing to acquire the subject property for the purpose of developing low to moderate income rental housing on the property, subject to the terms and conditions specified in the parties' NSP Contract of Sale and other related documents to be entered into by the parties in the transaction; and

WHEREAS, the City Council finds that the conveyance of the City's interest in the subject property to The Collaborative at less than its fair market value serves a public purpose by promoting and establishing high quality, affordable housing units for rental and possible future sale to low to moderate-income households in distressed neighborhoods as part of the City's HUD-funded Neighborhood Stabilization Program; and

WHEREAS, the public purpose will be maintained by the terms and conditions of the parties' contract of sale and certain deed restrictions in the conveyance deed to enforce the affordability requirements and recapture of federal funds invested by the City in the property.

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

That the City Manager be authorized to sign a Contract of Sale, for the amount of TWO HUNDRED DOLLARS AND 00/100 (\$200.00), Special Warranty Deed, and all other related and necessary documents, in a form approved by the City Attorney's Office, conveying the following properties to THE EL PASO COLLABORATIVE FOR COMMUNITY AND ECONOMIC DEVELOPMENT:

Lot 60, Block 33, Tierra Del Este #6, City of El Paso, El Paso County, Texas; also known as 3081 Tierra Salada, El Paso, Texas, 79938; and

Lot 32, Block 32, Vista Real #3, City of El Paso, El Paso County, Texas; also known as 3525 Oxcart Run, El Paso, Texas, 79936 (the "Property").

PASSED AND APPROVED this ____ day of _____, 2013.

THE CITY OF EL PASO

Oscar Leeser, Mayor

ATTEST:

Richarda Duffy Momsen, City Clerk

APPROVED AS TO CONTENT:



for William Lilly, Director
Community and Human Development

APPROVED AS TO FORM:



Kristen L. Hamilton,
Assistant City Attorney

1.5 **Affordability Covenant.** Conveyance of the Property shall be made by special warranty deed and shall contain covenants and restrictions running with the land to enforce the affordability covenants required under this Contract. The special warranty deed to Buyer from the City shall contain and be subject to affordability covenants and deed restrictions encumbering the Property which will provide that the Property must remain affordable to Low to Moderate-income individuals and/or households for a fifteen (15) year period (the "affordability period") pursuant to 24 CFR 92.252 (the "Affordability Covenants") in accordance with the terms and conditions contained in the Neighborhood Stabilization Program Written Agreement dated _____, 2013 ("NSP Agreement") between the parties.

2. **Purchase and Sale.**

2.1 **Consideration.** The consideration for the Property to be received by the City shall be TWO HUNDRED AND NO/100TH DOLLARS (\$200.00) and fulfillment of the affordability covenant and the post-conveyance obligations contained in the NSP Agreement in relation to construction and operation of affordable rental housing and possible future sale of the Property.

3. **Conditions to the Buyer's Obligations.** The obligations of the Buyer hereunder are to consummate the transaction contemplated herein are subject to the satisfaction of each of the following conditions, any of which may be waived, in whole or in part, in writing by the Buyer, at or prior to Closing.

3.1 **Inspection.** The Buyer shall complete its inspection of the Property on or before **fifteen (15)** working days after the execution of this Contract by the Buyer (the "Inspection Period"). For the purposes hereof, the Buyer may complete or cause to be completed inspections of the Property by inspectors of the Buyer's choice. Inspections may include, but shall not be limited to: (i) physical property inspections; (ii) environmental assessment or engineering study including the performance of tests such as soils tests, water tests or air sampling. The City shall permit the Buyer and the Buyer's inspectors access to the Property at all reasonable times. In the case of any invasive testing (taking samples, etc.), the Buyer shall provide to the City evidence that the consultant making such inspection carries liability insurance and is properly licensed. During the Inspection Period, the Buyer may determine in its sole and absolute discretion whether the Property is suitable for the Buyer's needs. In the event that the Buyer in its sole and absolute discretion determines that the Property is not suitable for its needs, the Buyer may terminate this Contract by delivering a written termination notice to the Seller within the Inspection Period. During the Inspection Period, the City covenants and agrees to make available to the Buyer the Property. Such inspection shall be conducted by the Buyer, and permitted by the City, on business days during normal business hours. To the extent allowed by Texas State law, the Buyer shall be liable for all damage or injury to any person or Property resulting from any such inspection occasioned by the acts of the Buyer, its employees, agents or representatives.

3.2 **Title Insurance.** Within **ten (10)** days after receipt of written notification of the City's acceptance of the Buyer's offer, the Buyer shall provide the City with all information necessary to close the sale with the intent that, without good cause existing or further delay, it is anticipated that the City and the Buyer will close within **thirty (30)** days from the date of the approval of the City Council of an ordinance authorizing the sale of the Property. The Buyer at its expense will order a title commitment ("Commitment") from Lawyers Title of El Paso accompanied by copies of all recorded documents affecting the Property for the issuance of an Owner's Policy of

Title Insurance with respect to the Property, in an amount to be decided by the Buyer (“Owner’s Policy”).

3.3 **Title Objections.** The Buyer will give the City written notice after it receives the Commitment that the condition of the title set forth in the Commitment is or is not satisfactory. In the event the Buyer states that the condition is not satisfactory, the Buyer will specifically set forth in such notice the defect or exception to title that is deemed objectionable. The City may promptly undertake to eliminate or modify all unacceptable matters to the reasonable satisfaction of the Buyer. Otherwise, this condition will be deemed acceptable and any objection by the Buyer will be deemed waived.

3.4 **Property Condition.**

(a) The City is not required to furnish Seller’s Disclosure Notice under Section 5.008, Texas Property Code.

(b) Seller’s Disclosure of Lead-based Paint and Lead-based Paint Hazards is required by federal law for a residential dwelling constructed prior to 1978 and the Addendum for the disclosure, if so required, is attached to this contract.

(c) Buyer accepts the Property in its present condition, provided the City, at City’s expense, shall complete the application for a rezoning and replatting of the Property. Buyer’s offer to purchase the Property is contingent upon the rezoning of the Property to P-R1 (Planned Residential) and the filing of a replat of the Property in the Real Property Records of El Paso County, Texas prior to Closing.

4. **Representations of City.** The City hereby represents, to the extent allowed by law, to the Buyer that to the best of its knowledge, as follows:

4.1 **Parties in Possession.** At the time of closing, other than the Buyer, there are no parties in possession of any portion of the Property as lessees, tenants at sufferance, or otherwise.

4.2 **Mechanic’s Lien.** (i) No action has been taken, suffered or permitted by or on behalf of the City, the effect of which would be to establish or cause the inception or priority of any mechanic’s or materialmen’s lien, statutory, constitutional or otherwise, or other lien, charge or encumbrance upon the Property or any part thereof or interest therein; and (ii) no liens or lien claims, choate or inchoate, arising from the City’s actions or otherwise, exist or can exist for the benefit of mechanics or materialmen in regard to the Property; and (iii) except as expressly disclosed in the documents relating to this transaction, the City has not entered into any contracts or agreements relating to the use or ownership of the Property or by which any person or entity agreed to provide labor, services or materials in regard to the Property or the business of the City.

4.3 **Litigation.** There is no pending or contemplated litigation before or by any court of law pertaining to the Property or which involve incidents occurring on the Property including, but not limited to, claims of damage to persons or Property.

4.4 **Bills Paid.** At closing, there will be no unpaid bills or claims in connection with any repair or operation of the Property as a result of the City’s ownership.

4.5 **Compliance Law.** All laws, ordinances, rules and regulations of any Government or any agency, body or subdivision thereof, bearing in the City's development of the Property, have been complied with.

4.6 **Taxes.** While the City owned the Property, the Property was exempt from ad valorem taxes.

4.7 **Pre-Closing Claims.** City agrees that the Buyer's acceptance of title to the Property under the conveyance documents should not create any liability on the Buyer's part to third parties that have claims of any kind against the City in connection with the Property. The City hereby expressly disclaims any and all liability to third parties that have any claims against the City.

4.8 **Condition of Property Prior to Closing.** Prior to Closing, the City shall not create or permit to be created any easement or other condition affecting the Property without the prior written consent of the Buyer.

4.9 **"AS IS, WHERE IS".** THIS CONTRACT IS AN ARMS-LENGTH AGREEMENT BETWEEN THE PARTIES. THE PURCHASE PRICE WAS BARGAINED ON THE BASIS OF AN "AS IS, WHERE IS" TRANSACTION. THE BUYER ACCEPTS THE AS IS, WHERE IS, AND WITH ALL FAULTS, AND EXCEPT AS THE WARRANTY OF TITLE, WITHOUT ANY REPRESENTATIONS OR WARRANTIES OF WHATSOEVER KIND, EXPRESS OR IMPLIED, WRITTEN OR ORAL, IT BEING THE INTENTION OF THE CITY AND THE BUYER TO EXPRESSLY NEGATE AND EXCLUDE ALL REPRESENTATIONS AND WARRANTIES OF ANY KIND, INCLUDING, BUT NOT LIMITED TO THOSE REGARDING: (A) THE CONDITION OF THE PROPERTY AND THE CONDITION; (B) THE SUITABILITY OF THE PROPERTY FOR ANY AND ALL ACTIVITIES AND USES WHICH THE BUYER MAY CONDUCT THEREON; (C) THE COMPLIANCE OF OR BY THE PROPERTY OR ITS OPERATION WITH ANY LAWS, RULES, ORDINANCES OR REGULATIONS OF ANY APPLICABLE GOVERNMENTAL AUTHORITY OR BODY; AND (D) THE HABITABILITY, MERCHANTABILITY, MARKETABILITY, PROFITABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE PROPERTY. THE BUYER FURTHER ACKNOWLEDGES AND AGREES THAT, HAVING BEEN GIVEN THE OPPORTUNITY TO INSPECT THE PROPERTY, THE BUYER IS RELYING SOLELY ON ITS OWN INVESTIGATION OF THE PROPERTY AND NOT ON ANY INFORMATION PROVIDED OR TO BE PROVIDED BY THE CITY. THE BUYER FURTHER ACKNOWLEDGES AND AGREES THAT ANY INFORMATION PROVIDED OR TO BE PROVIDED WITH RESPECT TO THE PROPERTY WAS OBTAINED FROM A VARIETY OF SOURCES AND THAT THE CITY HAS NOT MADE ANY INDEPENDENT INVESTIGATION OR VERIFICATION OF SUCH INFORMATION AND MAKES NO REPRESENTATIONS AS TO THE ACCURACY OR COMPLETENESS OF SUCH INFORMATION. THE CITY IS NOT LIABLE OR BOUND IN ANY MANNER BY ANY VERBAL OR WRITTEN STATEMENTS, REPRESENTATIONS OR INFORMATION PERTAINING TO THE PROPERTY, OR THE OPERATION THEREOF, FURNISHED BY ANY BROKER, AGENT, ATTORNEY, EMPLOYEE OR OTHER PERSON. IT IS UNDERSTOOD AND AGREED THAT THE PURCHASE PRICE FOR THE PROPERTY REFLECTS THAT ALL OF THE PROPERTY IS SOLD BY THE CITY AND PURCHASED BY THE BUYER SUBJECT TO THE FOREGOING.

4.10 **ENVIRONMENTAL MATTERS.** AFTER CLOSING, BETWEEN THE CITY AND THE BUYER, THE RISK OF LIABILITY OR EXPENSE FOR ENVIRONMENTAL PROBLEMS, EVEN IF ARISING FROM EVENTS BEFORE CLOSING, WILL BE THE SOLE RESPONSIBILITY OF THE BUYER, REGARDLESS OF WHETHER THE ENVIRONMENTAL PROBLEMS WERE KNOWN OR UNKNOWN AT CLOSING. ONCE CLOSING HAS OCCURRED, **THE BUYER SHALL INDEMNIFY, HOLD HARMLESS, AND RELEASE THE CITY FROM LIABILITY FOR ANY LATENT DEFECTS AND FROM ANY LIABILITY FOR ENVIRONMENTAL PROBLEMS AFFECTING THE PROPERTY, INCLUDING LIABILITY UNDER THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT (CERCLA), THE RESOURCE CONSERVATION AND RECOVERY ACT (RCRA), THE TEXAS SOLID WASTE DISPOSAL ACT, OR THE TEXAS WATER CODE. THE BUYER SHALL INDEMNIFY, HOLD HARMLESS AND RELEASE THE CITY FROM ANY LIABILITY FOR ENVIRONMENTAL PROBLEMS AFFECTING THE PROPERTY ARISING AS THE RESULT OF THE CITY'S OWN NEGLIGENCE OR THE NEGLIGENCE OF THE CITY'S REPRESENTATIVES. THE BUYER INDEMNIFIES, HOLDS HARMLESS, AND RELEASES THE CITY FROM ANY LIABILITY FOR ENVIRONMENTAL PROBLEMS AFFECTING THE PROPERTY ARISING AS THE RESULT OF THEORIES OF PRODUCTS LIABILITY AND STRICT LIABILITY, OR UNDER NEW LAWS OR CHANGES TO EXISTING LAWS ENACTED AFTER THE EFFECTIVE DATE THAT WOULD OTHERWISE IMPOSE ON THE CITY IN THIS TYPE OF TRANSACTION NEW LIABILITIES FOR ENVIRONMENTAL PROBLEMS AFFECTING THE PROPERTY.**

IN PARTICULAR, THE BUYER ACKNOWLEDGES THAT THERE MAY BE ASBESTOS ON THE PROPERTY AND THAT IT MUST COMPLY WITH ALL APPLICABLE LAWS AND REGULATIONS IN ADDRESSING ANY ASBESTOS.

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

5. **Closing.** The closing of this transaction ("Closing") shall take place at the offices of Lawyers Title of El Paso, 444 Executive Center Blvd. Ste 100, El Paso, Texas 79902 on or before the later of (i) thirty (30) days from the Effective Date; or (ii) thirty (30) days after the execution of this Contract by the City, subject to delays due to the City's efforts to cure any title objection under Section 3.3.

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

5.2 **Closing Costs.**

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

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

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

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

6. **Default/Termination.**

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

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

7. **Miscellaneous.**

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

City: City Manager
City of El Paso
300 N. Campbell, 2nd Floor
El Paso, Texas 79901

Copy to: Neighborhood Stabilization Program
City of El Paso
P.O. Box 1890
El Paso, Texas 79950

Buyer: The El Paso Collaborative for Community and Economic Development
Attn: Executive Director
10935 Ben Crenshaw, Suite 210
El Paso, Texas 79935

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

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

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

8.3 **Survival of Provisions.** The terms contained in this Contract, including without limitation, representations, warranties, covenants and agreements of the parties, shall survive the Closing and shall not be merged therein. In case any one or more of the provisions contained in this contract for any reason is held invalid, this invalidity will not affect any other provision of this Contract, which will be construed as if the invalid or unenforceable provision had never existed.

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

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

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

[Signatures on Following Page]

The above instrument, together with all conditions thereto is hereby executed by the City this _____ day of _____, 2013.

CITY OF EL PASO
A Municipal Corporation

By _____
Joyce A. Wilson, City Manager

APPROVED AS TO CONTENT:


for William L. Lilly, Director
Community & Human Development

APPROVED AS TO FORM:


Kristen L. Hamilton
Assistant City Attorney

ACKNOWLEDGMENT

STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on the _____ day of _____, 2013, by Joyce Wilson, City Manager of the City of El Paso.

My Commission Expires: _____
Notary Public, State of Texas

The above instrument, together with all conditions thereto, is hereby executed by The El Paso Collaborative for Community and Economic Development, this _____ day of _____, 2013.

BUYER:
The El Paso Collaborative for Community and Economic Development

By _____
Name _____
Title _____

[Acknowledgment on Following Page]

ACKNOWLEDGMENT

STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on the _____ day of _____, 2013, by _____, (title) _____ of The El Paso Collaborative for Community and Economic Development, on behalf of said entity, as Buyer.

My Commission Expires:

Notary Public, State of Texas

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

DATE: _____, 2013

GRANTOR: THE CITY OF EL PASO, TEXAS, a Texas municipal corporation

GRANTOR'S MAILING ADDRESS (including county):

300 N. Campbell St
El Paso, Texas 79901
El Paso County, Texas

GRANTEE: THE EL PASO COLLABORATIVE FOR COMMUNITY AND ECONOMIC DEVELOPMENT

GRANTEE'S MAILING ADDRESS (including county):

**10935 Ben Crenshaw, Suite 210
El Paso, Texas 79935
El Paso County, Texas**

CONSIDERATION: TWO HUNDRED AND 00/100 DOLLARS (\$200.00) and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged and confessed.

PROPERTY (INCLUDING ANY IMPROVEMENTS):

Lot 60, Block 33, Tierra Del Este #6, City of El Paso, El Paso County, Texas;
also known as 3081 Tierra Salada, El Paso, Texas 79938

And

Lot 32, Block 32, Vista Real #3, City of El Paso, El Paso County, Texas; also
known as 3525 Oxcart Run, El Paso, Texas 79936

RESTRICTIONS, CONDITIONS, AND RESERVATIONS FROM EXCEPTIONS TO CONVEYANCE AND WARRANTY:

1. Any discrepancies, conflicts, or shortages in area or boundary lines, or any encroachments or protrusions, or any overlapping of improvements;

2. This conveyance is subject to all easements, rights-of-way, and prescriptive rights for road, ditches and utility lines, whether of record or not, all presently recorded instruments, other than liens and conveyances that affect the Property;

3. Standby fees, taxes and assessments by any taxing authority for the calendar year of 2013 and subsequent taxes and assessments by any taxing authority for prior years due to change in land usage or ownership, and those taxes or assessments for prior years because of an exemption granted to a previous owner of the Property under Section 11.13, Texas Tax Code, or because of improvements not assessed for a previous year, prorated to the date hereof, which GRANTEE agrees to assume;

4. Property is subject to a restrictive covenant to the effect that any purchaser, its successors or assigns, will not, for a period of at least seventy-five (75) years, discard, place, or store upon such land, any radioactive material or other materials which would contaminate or otherwise damage the ground water supply or resources of the GRANTOR;

5. Any and all restrictions, reservations, covenants, conditions, easements, and other matters, if any, relating to the Property, whether shown of record or not in the hereinabove mentioned County and State, and to all zoning laws, regulations, and ordinances of municipal and/or other governmental authorities, if any, relating to the hereinabove described Property.

6. Terms, conditions and stipulations as set out on the Plat, recorded under Clerk's No. _____, Real Property Records of El Paso County, Texas;

7. _____
[any other exceptions set forth in the Title Policy]

8. **AFFORDABILITY COVENANT.**

(a) The Property must remain affordable to Low to Moderate-income individuals and/or households for a fifteen (15) year period (the "affordability period") pursuant to 24 CFR 92.252 (the "Affordability Covenants") in accordance with the terms and conditions contained in the Neighborhood Stabilization Program Written Agreement dated _____, 2013 between GRANTOR AND GRANTEE on file in the City Clerk's Office for the City of El Paso, Texas.

(b) This Section is intended to create and does create a restrictive covenant and it is the intent of GRANTOR to convey to GRANTEE the GRANTOR's interest subject to this restrictive covenant. Violation or breach of the restrictive covenant herein shall give the City of El Paso, Texas the right to institute any proceeding at law or in equity.

(c) Upon expiration of the affordability period and satisfaction of all other requirements under this Section, the City of El Paso will upon request promptly execute and deliver to the owner of record a release instrument duly executed and in recordable form for filing in the Real Property Records, El Paso County, Texas.

GRANT AND CONVEYANCE:

The GRANTOR, for the consideration and subject to the reservations from and exceptions to conveyance, and warranty, GRANTS, SELLS, and CONVEYS to the GRANTEE the Property, together with all and singular the rights and appurtenances thereto in any wise belonging, to have and hold it to the GRANTEE, the GRANTEE'S administrators, successors and assigns forever. The GRANTOR binds the GRANTOR and the GRANTOR'S successors and assigns to warrant and forever defend all and singular the property to the GRANTEE and the GRANTEE'S administrators, successors and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof, except as to the Reservations From and Exceptions to Conveyance, when the claim is by, through, or under the GRANTOR but not otherwise.

The GRANTOR has executed and delivered this Deed, and the GRANTEE by recording this Deed has accepted this Deed and has purchased the Property, AS IS, WHERE IS, AND WITH ALL FAULTS, AND EXCEPT AS TO THE WARRANTY OF TITLE, WITHOUT ANY REPRESENTATIONS OR WARRANTIES OF WHATSOEVER KIND, EXPRESS OR IMPLIED, WRITTEN OR ORAL, IT BEING THE INTENTION OF THE GRANTOR AND THE GRANTEE TO EXPRESSLY NEGATE AND EXCLUDE ALL REPRESENTATIONS AND WARRANTIES OF ANY KIND, INCLUDING, BUT NOT LIMITED TO THOSE REGARDING: (A) THE CONDITION OF THE PROPERTY; (B) THE SUITABILITY OF THE PROPERTY FOR ANY AND ALL ACTIVITIES AND USES WHICH THE GRANTEE MAY CONDUCT THEREON; (C) THE COMPLIANCE OF OR BY THE PROPERTY OR ITS OPERATION WITH ANY LAWS, RULES, ORDINANCES OR REGULATIONS OF ANY APPLICABLE GOVERNMENTAL AUTHORITY OR BODY; (D) PRESENT ZONING AND SURFACE CONDITIONS; AND (E) THE HABITABILITY, MERCHANTABILITY, MARKETABILITY, PROFITABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE PROPERTY. THE GRANTEE FURTHER ACKNOWLEDGES AND AGREES THAT, HAVING BEEN GIVEN THE OPPORTUNITY TO INSPECT THE PROPERTY, THE GRANTEE IS RELYING SOLELY ON ITS OWN INVESTIGATION OF THE PROPERTY AND NOT ON ANY INFORMATION PROVIDED OR TO BE PROVIDED BY THE GRANTOR. THE GRANTEE FURTHER ACKNOWLEDGES AND AGREES THAT ANY INFORMATION PROVIDED OR TO BE PROVIDED WITH RESPECT TO THE PROPERTY WAS OBTAINED FROM A VARIETY OF SOURCES AND THAT THE GRANTOR HAS NOT MADE ANY INDEPENDENT INVESTIGATION OR VERIFICATION OF SUCH INFORMATION AND MAKES NO REPRESENTATIONS AS TO THE ACCURACY OR COMPLETENESS OF SUCH INFORMATION. THE GRANTOR IS NOT LIABLE OR BOUND IN ANY MANNER BY ANY VERBAL OR WRITTEN STATEMENTS, REPRESENTATIONS OR INFORMATION PERTAINING TO THE PROPERTY, OR THE OPERATION THEREOF, FURNISHED BY ANY BROKER, AGENT, ATTORNEY, EMPLOYEE OR OTHER PERSON. IT IS UNDERSTOOD AND AGREED THAT THE PURCHASE PRICE FOR THE PROPERTY REFLECTS THAT ALL OF THE PROPERTY IS SOLD BY THE GRANTOR AND PURCHASED BY THE GRANTEE SUBJECT TO THE FOREGOING.

AFTER CLOSING, BETWEEN THE GRANTOR AND THE GRANTEE, THE RISK OF LIABILITY OR EXPENSE FOR ENVIRONMENTAL PROBLEMS, EVEN IF ARISING FROM EVENTS BEFORE CLOSING, WILL BE THE SOLE RESPONSIBILITY OF THE GRANTEE, REGARDLESS OF WHETHER THE ENVIRONMENTAL PROBLEMS WERE KNOWN OR UNKNOWN AT CLOSING AND ONCE CLOSING HAS OCCURRED, THE GRANTEE INDEMNIFIES, HOLDS HARMLESS, AND RELEASES THE GRANTOR FROM LIABILITY

FOR ANY LATENT DEFECTS AND FROM ANY LIABILITY FOR ENVIRONMENTAL PROBLEMS AFFECTING THE PROPERTY, INCLUDING LIABILITY UNDER THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT (CERCLA), THE RESOURCE CONSERVATION AND RECOVERY ACT (RCRA), THE TEXAS SOLID WASTE DISPOSAL ACT, OR THE TEXAS WATER CODE. **THE GRANTEE INDEMNIFIES, HOLDS HARMLESS AND RELEASES THE GRANTOR FROM ANY LIABILITY FOR ENVIRONMENTAL PROBLEMS AFFECTING THE PROPERTY ARISING AS THE RESULT OF THE GRANTOR'S OWN NEGLIGENCE OR THE NEGLIGENCE OF THE GRANTOR'S REPRESENTATIVES.** THE GRANTEE INDEMNIFIES, HOLDS HARMLESS, AND RELEASES THE GRANTOR FROM ANY LIABILITY FOR ENVIRONMENTAL PROBLEMS AFFECTING THE PROPERTY ARISING AS THE RESULT OF THEORIES OF PRODUCTS LIABILITY AND STRICT LIABILITY, OR UNDER NEW LAWS OR CHANGES TO EXISTING LAWS ENACTED AFTER THE EFFECTIVE DATE THAT WOULD OTHERWISE IMPOSE ON THE GRANTOR IN THIS TYPE OF TRANSACTION NEW LIABILITIES FOR ENVIRONMENTAL PROBLEMS AFFECTING THE PROPERTY.

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

GRANTOR: THE CITY OF EL PASO, TEXAS,
A Municipal Corporation

Joyce Wilson, City Manager

ACKNOWLEDGMENT

STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on the _____ day of _____, 2013, by JOYCE WILSON, as the City Manager of THE CITY OF EL PASO, TEXAS, a Texas home-ruled municipal corporation on behalf of said corporation as GRANTOR.

My Commission Expires:

Notary Public, State of Texas

ACCEPTANCE

THE EL PASO COLLABORATIVE FOR COMMUNITY AND ECONOMIC DEVELOPMENT accepts the terms, covenants, obligations and conditions of this deed.

GRANTEE:
THE EL PASO COLLABORATIVE FOR
COMMUNITY AND ECONOMIC DEVELOPMENT

By: _____
Name: _____
Title: _____

[ACKNOWLEDGMENT ON FOLLOWING PAGE]

ACKNOWLEDGMENT

STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on the _____ day of _____, 2013, by _____, (title) _____ of The El Paso Collaborative for Community and Economic Development, on behalf of said entity as GRANTEE.

My Commission Expires:

Notary Public, State of Texas
Notary's name printed:

AFTER RECORDING RETURN TO:

El Paso, Texas 799__

PREPARED IN THE LAW OFFICE OF:

City Attorney's Office
City of El Paso
300 N. Campbell, 2nd Floor
El Paso, Texas 79901