

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

**DEPARTMENT:** El Paso Water Utilities Public Service Board (EPWater)

**AGENDA DATE:** Introduction - \_\_\_\_\_.  
Public Hearing - \_\_\_\_\_.

**CONTACT PERSON/PHONE:** Rocio P. Alvarado, Real Estate Manager, 915.594.5493

**DISTRICT(S) AFFECTED:** NA

**SUBJECT:** APPROVE the following Ordinance

Authorizing the City Manager to sign a Purchase and Sale Agreement, a Deed and any other documents necessary to convey to Tyson and Megan Strain, approximately 16.2097 acres of land, legally described as portion of Section 9, Township 27, South Range 3 East, New Mexico Principle Meridian, Doña Ana County, New Mexico

EPWater, Rocio P. Alvarado, Real Estate Manager, 915.594.5493.

**BACKGROUND / DISCUSSION:**

The parcel of land is owned by the El Paso Water Utilities Public Service Board ("*EPWater*"), for and on behalf of the City of El Paso, a Texas municipal corporation, as part of its water system (*the "System"*). On December 9, 2020, the Public Service Board declared the property inexpedient to the system and authorized the President/CEO of EPWater to obtain an appraisal of the property.

On April 13, 2022, the Public Service Board approved the sale of land that has been declared inexpedient to the System through a real estate broker, in accordance with Texas Local Government Code Ann.§253.014(a)-(e), as added and amended; and,

On November 8, 2023, the Public Service Board approved the sale of the above-mentioned land.

**PRIOR COUNCIL ACTION:**

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

Yes, the City Council approved a closely item related to this one.

On May 23, 2023, the City Council approved the sale of 49.156 acres of New Mexico land to Terry Taylor and Susan K. Taylor through the real estate broker.

**AMOUNT AND SOURCE OF FUNDING:** N/A

**BOARD / COMMISSION ACTION:**

On November 8, 2023, the Public Service Board approved the sale of the land through the real estate broker.

**AFTER EXECUTION OF ALL DOCUMENTS, PLEASE CONTACT ROCIO P. ALVARADO TO PICK UP THE DOCUMENTS @ 594.5493. THANK YOU.**

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

**AN ORDINANCE AUTHORIZING THE CITY MANAGER TO SIGN A PURCHASE AND SALE AGREEMENT, A DEED AND ANY OTHER DOCUMENTS NECESSARY TO CONVEY APPROXIMATELY 16.2097 ACRES OF LAND, LEGALLY DESCRIBED AS PORTION OF SECTION 9, TOWNSHIP 27, SOUTH RANGE 3 EAST, NEW MEXICO PRINCIPLE MERIDIAN, DOÑA ANA COUNTY, NEW MEXICO**

**WHEREAS**, the El Paso Water Utilities Public Service Board ("*EPWater*"), for and on behalf of the City of El Paso, a Texas municipal corporation, holds certain real properties in its land inventory as part of its water utility systems (collectively the "*System*"); and,

**WHEREAS**, at its regular meeting on December 9, 2020, the Public Service Board determined approximately 16.2097 acres of land legally described as a portion of Section 9, Township 27, South Range 3 East, New Mexico Principle Meridian, Doña Ana County, New Mexico (the "*Property*"), to be inexpedient to the water system and that the Property should be sold in accordance with state law; and,

**WHEREAS**, on April 13, 2022, the Public Service Board approved the sale of land that has been declared inexpedient to the System through a real estate broker, in accordance with Texas Local Government Code Ann.§253.014(a)-(e), as added and amended; and,

**WHEREAS**, on November 8, 2023, the Public Service Board approved and authorized the sale of the Property to Tyson and Megan Strain, for the sales price of \$360,000.00 and adopted a Resolution making the finding as set forth hereinabove and requesting the El Paso City Council pass an Ordinance authorizing the City Manager to sign a Purchase and Sale Agreement, a Deed and any and all necessary documents to complete the conveyance of the Property; and,

**WHEREAS**, the Property being was appraised at its fair market value and the purchaser has agreed to pay above the appraised value;

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

That the City Manager is authorized to sign a Purchase and Sale Agreement, a Deed and any other necessary documents, in a form approved by the City Attorney's Office, for the sale of the following identified real property:

16.2097 acres of land, legally described as portion of Section 9,  
Township 27, South Range 3 East, New Mexico Principle Meridian, Doña  
Ana County, New Mexico

**(Signatures begin on following page)**

**PASSED AND APPROVED** this \_\_\_\_\_ day of \_\_\_\_\_.


**CITY OF EL PASO**

\_\_\_\_\_  
**Oscar Leeser,**  
**Mayor**

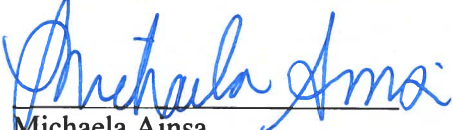
**ATTEST:**

\_\_\_\_\_  
**Laura D. Prine,**  
**City Clerk**

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
**Roberta Brito**  
**Senior Assistant City Attorney**

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
**Michaela Ainsa**  
**Senior Assistant General Counsel**

**ORDINANCE NUMBER** \_\_\_\_\_  
Sale of NM Land - 16.2097 Acres – Strain

### **SPECIAL WARRANTY DEED**

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

**Effective Date:** \_\_\_\_\_.

**Grantor:**           **EL PASO WATER UTILITIES PUBLIC SERVICE BOARD, for and behalf of the CITY OF EL PASO, TEXAS, a Texas municipal corporation**  
1154 Hawkins  
El Paso, Texas 79925

**Grantee:**           Tyson and Megan Strain  
345 Heavenly Lane  
Anthony, NM 88021  
Attn: Tyson Strain  
Phone: (575)313-6290

**Consideration:** TEN AND NO/100THS DOLLARS (\$10.00), and other good and valuable consideration to the undersigned paid by Grantee, the receipt of which is hereby acknowledged.

**Property (including any improvements):**

A parcel of land consisting of approximately 16.2097 acres of land legally described as a portion of Section 9, Township 27, South Range 3 East, New Mexico Principle Meridian, Doña Ana County, New Mexico, such portion being legally described by metes and bounds in **Exhibit A**, attached hereto.

All permitted water rights under permit LRG-4936 for irrigation, domestic use, livestock use, industrial use, and any other purpose of use recognized by the New Mexico Office of the State Engineer and the Courts of New Mexico, and otherwise appurtenant to or in any manner associated with the Land and its use, including but not limited to all vested or unvested surface and groundwater rights, either declared, licensed, permitted, adjudicated or undeclared with the New Mexico Office of the State Engineer (the "Water Rights") (collectively, the "Property")

**GRANTOR AND GRANTEE AGREE THAT GRANTEE IS ACCEPTING THE PROPERTY FROM GRANTOR IN ITS "AS IS, WHERE IS, AND WITH ALL FAULTS" CONDITION AND THAT THERE ARE NO REPRESENTATIONS OR EXPRESS OR IMPLIED WARRANTIES, EXCEPT THE SPECIAL WARRANTY OF TITLE CONTAINED IN THIS DEED. GRANTEE HAS NOT RELIED ON ANY INFORMATION OTHER THAN GRANTEE'S INSPECTION OF THE PROPERTY.**

## **INSPECTION OF THE PROPERTY**

Grantor, 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 the Property unto Grantee and Grantee's successors and assigns forever. Grantor binds Grantor and Grantor's successors and assigns to warrant and forever defend all and singular the Property unto 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.

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

*(Signature page and exhibits follow.)*

**EXECUTED** to be effective as of the date first stated above.

**GRANTOR:**

**THE CITY OF EL PASO,  
a Texas municipal corporation**

By: \_\_\_\_\_  
Name: Cary Westin  
Title: City Manager

THE STATE OF TEXAS           §  
  §  
COUNTY OF EL PASO         §

This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, 2024  
by Cary Westin, Interim City Manager of the City of El Paso.

\_\_\_\_\_  
**NOTARY PUBLIC**, State of Texas

## EXHIBIT A



ROMAN BUSTILLOS, P.E.  
President  
RANDY P. BROCK, P.E.  
Executive Vice President  
SERGIO J. ADAME, P.E.  
Vice President - Engineering  
AARON ALVARADO, R.P.L.S.  
Vice President - Surveying  
TBPE Reg. No. F-737  
TBPLS Reg. No. 101314-00

### METES AND BOUNDS DESCRIPTION

*A 16.2097 acres parcel situate northeast of La Union, Doña Ana County, New Mexico as a portion of Section 9, Township 27 South, Range 3 East, N.M.P.M., and being more particularly described by metes and bounds as follows.*

**COMMENCING** at a Texas-New Mexico State Line Monument No. 9, concrete monument brass disk found; **THENCE**, following the Texas-New Mexico State Line, South 52°40'31" East, a distance of 561.58 feet to a 1/2 inch rebar with survey cap No. "NM 21400" set on the south right-of-way line of Doña Ana County Road A-49 (50 feet wide) for the northeasterly corner and the **POINT OF BEGINNING** of the parcel herein described, identical to the northwesterly corner of Tract 1, Block 20, Upper Valley Grant Surveys as described in Book 2093, Page 691, El Paso County Deed Records;

**THENCE**, leaving the south right-of-way line of said Doña Ana County Road A-49 and continuing along the Texas-New Mexico State Line, South 52°40'31" East (South 52°50'02" East-record), a distance of 49.21 feet to a Texas-New Mexico State Line Monument No. 10, broken concrete monument found for an angle point of the parcel herein described;

**THENCE**, continuing along the Texas-New Mexico State Line, South 46°44'35" East (South 46°56'20" East-record), a distance of 1,070.23 feet (1,069.80 feet-record) to an 8 inch diameter concrete monument stamped "1963" found for the southeasterly corner of the parcel herein described, identical to the southwesterly corner of said Tract 1;

**THENCE**, leaving the Texas-New Mexico State Line, South 68°16'51" West (South 68°06'00" West-record), a distance of 529.58 feet (524.65 feet-record) to an 8 inch diameter concrete monument stamped "1963" found for the southwesterly corner of the parcel herein described, identical to the southeasterly corner of a 8.186 acres parcel as described in Instrument No. 1707880, Doña Ana County Deed Records;

**THENCE**, North 45°40'27" West (North 46°07'00" West-record), a distance of 881.42 feet (882.68 feet-record) to an old 5/8 inch rebar found for an angle point of the parcel herein described, identical to the northeasterly corner of said 8.186 acres parcel;

**THENCE**, South 82°58'38" West (South 82°48'00" West-record), a distance of 380.10 feet (380.17 feet-record) to an old 5/8 inch rebar found on the westerly right-of-way line of the La Union Main Canal for an angle point of the parcel herein described, identical to the northwesterly corner of said 8.186 acres parcel;

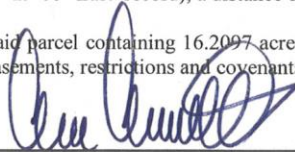
**THENCE**, following the easterly right-of-way line of said La Union Main Canal, North 19°34'50" West (North 19°51'03" West-record), a distance of 455.34 feet to a 1/2 inch rebar with survey cap

417 Executive Center Blvd. • El Paso, Texas 79902 • P - (915) 542-4900 • F - (915) 542-2867 • [www.brockbustillos.com](http://www.brockbustillos.com)

No. "NM 21400" set on the southerly right-of-way line of said Doña Ana County Road A-49 for the northwesterly corner of the parcel herein described;

**THENCE**, leaving the easterly right-of-way line of said La Union Main Canal and following the southerly right-of-way line of said Doña Ana County Road A-49, South 87°18'29" East (South 87°29'00" East~record), a distance of 834.74 feet to the **POINT OF BEGINNING**.

Said parcel containing 16.2097 acres (706,093.4 square feet), more or less, and being subject to all easements, restrictions and covenants of record.



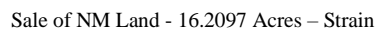
Aaron Alvarado, NM P.S. No. 21400

Date: July 27, 2021

05896-137-16.2097 AC-DESC







## **PURCHASE AND SALE AGREEMENT**

This Purchase and Sale Agreement (this "**Agreement**") is entered into by and between THE EL PASO WATER UTILITIES PUBLIC SERVICE BOARD, for and on behalf of the CITY OF EL PASO, a Texas municipal corporation (the "**Seller**" or "**EPWater**") and Tyson and Megan Strain, as husband & wife (together, the "**Buyer**"). The Seller and the Buyer may be referred to individually herein as a "**Party**" and collectively as the "**Parties**".

### **RECITALS**

**WHEREAS**, the Seller owns the property described below; and

**WHEREAS**, the Buyer desires to purchase the property from the Seller in its "as-is, where-is and with all faults" condition; and

**WHEREAS**, the Seller desires to sell the property to the Buyer in its "as-is, where-is and with all faults" condition, subject to the terms and conditions contained in this Agreement; and

**WHEREAS**, the property is being sold pursuant to the broker listing procedure outlined in Texas Local Government Code Chapter 253; and

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

### **AGREEMENT**

1. **Description of Property.** The Seller hereby agrees to sell and convey, and the Buyer hereby agrees to purchase, subject to the terms and conditions contained in this Agreement, the following described real property located in Dona Ana County, New Mexico:

- i) An approximately 16.2097 acres of land, legally described as portion of Section 9, Township 27, South Range 3 East, New Mexico Principal Meridian, Doña Ana County, New Mexico, such portion being legally described by metes and bounds in **Exhibit A**, attached hereto and incorporated herein for all purposes; together with any interest in (i) all improvements and fixtures, and (ii) all right, title and interest in and to all easements, appurtenances, and rights-of-way, and all interests in, on or to, any land, highway or street, in, on, across, in front of, abutting, or adjoining any such real property, all of such property (collectively, the "**Property**").
- ii) All permitted water rights under LRG-4936 for irrigation, domestic use, livestock use, industrial use, and any other purpose of use recognized by the New Mexico Office of the State Engineer and the Courts of New Mexico, and otherwise appurtenant to or in any manner associated with the Land and its use, including but not limited to all vested or unvested surface and groundwater rights, either declared, licensed, permitted, adjudicated or undeclared with the New Mexico Office of the State Engineer (collectively, the "**Water Rights**")

1.1 **Seller's Reservations & Disclosures.** The Property will be conveyed to the Buyer at Closing subject to certain exceptions, if any, by the Seller, as more particularly identified on

Exhibit B, attached hereto and incorporated fully herein (the “*Seller’s Reservations and Disclosures*”) provided that Buyer shall retain reasonable rights to use the Rights of Way for access, utilities and other uses that do not unreasonably restrict Seller’s use of the Property.

In addition, the Property will be conveyed to the Buyer at Closing subject to known disclosures, if any, as more particularly identified on Exhibit B, attached hereto and incorporated fully herein.

1.2 **Reliance on the Buyer's Own Diligence.** It is acknowledged and agreed that the Buyer has conducted and is relying solely on its own due diligence concerning the Property, including, without limitation, performing any archeological or environmental reports, studies, or surveys of the Property it, in its sole discretion, has desired to perform, and has determined that the Property is suitable for its intended purposes. Mitigation of any conditions on the Property, including archeological sites or, without limitation, any environmental conditions, shall be at the sole cost and expense of the Buyer who shall take the Property at Closing (as defined below) subject to all conditions existing on the date of the Buyer's signature to this Agreement. By its signature hereto, the Buyer accepts responsibility for its own determination of the nature and extent of any archeological sites, or without limitation, any environmental conditions, relating to the Property.

1.3 **Easements.** The Property shall be conveyed to the Buyer subject to all easements, whether of record or not, affecting the Property. Buyer shall be solely responsible for the cost and acquisition of any additional easements it may require for the Property, including, without limitation, easements for the purposes of ingress and egress.

1.4 **[Intentionally Deleted]**

1.5 **Utility Connections and Modifications.** Buyer shall be solely responsible for the costs of all on-site and off-site extensions, relocations, easements, replacements, or adjustments of water, sanitary sewer, and appurtenances, and for all utility connections including without limitation public sanitary and storm sewers, natural gas, telephone, public water facilities, electrical facilities and all other utility facilities and services necessitated by and attributable to the proposed subdivision improvement plans, or to otherwise provide service lines to the Property.

2. **Purchase Price.** The purchase price for the Property shall be Three Hundred Sixty Thousand U.S. Dollars and Zero Cents, (\$360,000.00) (the “*Purchase Price*”).

2.1 **Payable at Closing.** The full Purchase Price shall be tendered to Seller at Closing.

2.2 **Earnest Money.** Buyer shall pay Seller in the amount of Ten Thousand U.S. Dollars and Zero Cents, (\$10,000.00) (the “*Earnest Money*”) with Darlene Bernal of Las Cruces Abstract & Title Company (the “*Escrow Agent*”) no more than five (5) business days after the Effective Date as a guarantee that the terms and conditions of this Agreement shall be fulfilled. The Earnest Money shall be credited towards the Purchase Price if and when Closing occurs.

2.3 **Earnest Money Deposit.** The Parties agree that the Earnest Money shall be deposited by Escrow Agent in an interest-bearing account at an institution acceptable to Seller and Buyer.

2.4 **Independent Consideration.** Five Thousand U.S. Dollars and Zero Cents (\$5,000.00) of the Earnest Money shall constitute independent consideration (“*Independent Consideration*”) for Purchaser’s Inspection Period (as hereinafter defined).

**3. Inspection Period.** For period of ten(10) days, beginning on the Effective Date (the “*Inspection Period*”), the Buyer may inspect the Property and conduct due diligence in, on or in relation to the Property including, but not limited to review of conditions (physical and financial), all information, contracts and agreements, and perform such other inspections and studies as Buyer desires in its sole discretion; provided that Seller’s prior written consent must first be obtained before the commencement of any invasive studies (including Phase II environmental studies) on the Property.

**3.1 Access.** Beginning on the Effective Date and thereafter until Closing or termination of this Agreement, Buyer and Buyer’s employees and agents will have the right to enter the Property to perform, at Buyer’s expense, such economic, surveying, engineering, topographic, environmental, marketing and other tests, studies and investigations in accordance with the provisions in Section 3 above; provided that, Buyer must coordinate with Seller at least seventy-two (72) hours in advance before to entering onto the Property at any time prior to Closing.

**3.2 Termination During Inspection Period.** Buyer may terminate this Agreement by providing Seller written notice of termination prior to the expiration of the Inspection Period. Upon receipt of the notice of termination by the Seller during the Inspection Period, this Agreement shall be deemed terminated and the Earnest Money Deposit, less the Independent Consideration, shall be refunded to Buyer and the Parties shall have no further rights or obligations under this Agreement, except the Surviving Obligations. If Buyer fails to timely deliver a notice of termination, upon expiration of the Inspection Period, Buyer is deemed to have approved the Property and waived its right to terminate this Agreement under this Section 3.2. Upon expiration of the Inspection Period the Earnest Money shall become non-refundable, except in the event of a default by Seller under this Agreement or as otherwise specifically set forth in this Agreement. At Closing, the Earnest Money Deposit will be credited against the Purchase Price or returned to Seller, at the election of Seller in its sole discretion.

**4. Survey.** If Seller has an existing survey of the Property in its possession, Seller will furnish Buyer a copy of the existing survey of the Property within twenty (20) business days after the Effective Date. Buyer may obtain a new survey at its cost. If Buyer obtains a new survey, the metes and bounds description of the Property contained in the new survey will be used for purposes of describing the Property in the Deed at Closing.

**5. Title Binder.** Within twenty (20) business days after the Effective Date, Seller will, at Buyer’s expense, deliver or cause to be delivered to Buyer a title commitment covering the Property from Las Cruces Abstract & Title Company (the “*Title Company*”), binding the Title Company to issue an Owner’s Policy of Title Insurance (“*Owner’s Policy*”) with respect to the Property in the full amount of the Purchase Price at the Closing (the “*Title Binder*”). The Title Binder shall include legible copies of all exceptions listed on Schedule B and Schedule C of the Title Binder. The Seller will provide copies of the Title Binder and all recorded documents affecting the Property to Buyer no later than three (3) days after the Seller’s receipt of the same.

**5.1 Buyer’s Approval of Title.** Buyer shall have until the expiration of the Inspection Period

to deliver in writing to Seller objections Buyer may have to anything contained in the Title Binder or survey. In the event that Buyer delivers objections to Seller, Seller may, in Seller’s sole discretion, undertake to eliminate or modify all unacceptable matters to the reasonable satisfaction of Buyer (“*Non-Permitted Encumbrances*”). In the event Buyer does not terminate this Agreement during the Inspection Period pursuant to the terms of Section 3.2 herein, Buyer will be deemed to have approved exceptions contained in the Title Binder that have not been cured (the “*Permitted Exceptions*”). Notwithstanding the foregoing, Seller shall at its expense

cure, remove or satisfy the Non-Permitted Encumbrances at or before the Closing. The Non-Permitted Encumbrances will never be included as Permitted Exceptions. In addition to the above, Buyer may object to and will not be deemed to approve any additional exceptions shown in an updated Title Binder or Survey delivered to Buyer after the expiration of the Inspection Period and such matters will not be considered Permitted Exceptions unless expressly approved by Buyer.

5.2 **Compliance.** In accordance with the requirements of the Property Code, Title 2, Chapter 5, Subchapter D, Buyer is hereby advised that it should obtain a title abstract or title commitment covering the Property and have it examined by an attorney of its own selection and purchase owner's policy of title insurance covering the Property.

6. **Representations of the Seller.** The Seller hereby represents, to the extent allowed by law, to the Buyer, that, to its actual knowledge, the following are true in all material respects:

6.1 **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 or tenants at sufferance.

6.2 **Mechanic's Lien.** (i) No liens arising from the Seller's actions or otherwise, exist for the benefit of mechanics or materialmen in regard to the Property; and (ii) except as expressly disclosed in the documents relating to this transaction, the Seller 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 Seller.

6.3 **Litigation.** There is no pending 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.

6.4 **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 Seller's ownership.

6.5 **Taxes.** The taxes for the year 2023 and/or pro-rata 2024 will be paid by Seller. Any taxes, fees, and assessments imposed after the date of Closing shall be the responsibility of Buyer.

7. **Representations of the Buyer.** The Buyer hereby represents, to the extent allowed by law, to the Seller, that to the best of its knowledge, that the following are true:

7.1 **Authority.** The Buyer has full power and authority to execute and deliver this Agreement and to perform and carry out all covenants and obligations to be performed and carried out by the Buyer herein.

7.2 **Non-Contravention.** The execution and delivery of this Agreement by the Buyer and the consummation by the Buyer of the transactions contemplated hereby will not materially violate any judgment, order, injunction, decree, regulation or ruling of any court or any governmental or quasi-governmental bodies or agencies having jurisdiction over the Buyer, or conflict with, result in a breach of, or constitute a default under the organizational documents of the Buyer, any note or other evidence of indebtedness, any mortgage, deed of trust or indenture, or any lease or other material agreement or instrument to which the Buyer is a party or by which it is bound.

7.3 **Consents.** No consent, waiver, approval or authorization is required from any person or entity that has not already been obtained as of the Effective Date or, if appropriate, which will be obtained prior to Closing, in connection with the execution and delivery of this Agreement by the Buyer or the performance by the Buyer of the transactions contemplated hereby, except for those the failure of which to be obtained would not be reasonably expected to cause a material adverse effect to the Buyer.

7.4 **Bankruptcy.** The Buyer has not (i) commenced a voluntary case, or had entered against it a petition, for relief under any federal bankruptcy statute or any similar petition, order or decree under any federal or state law or statute relative to bankruptcy, insolvency or other relief for debtors, or solicited or caused to be solicited petitioning creditors for any involuntary petition against it, or filed an answer consenting to or otherwise acquiescing in or joining in any involuntary petition filed against it, (ii) caused, suffered or consented to the appointment of a receiver, trustee, administrator, conservator, liquidator or similar official in any federal, state or foreign judicial or non-judicial proceeding to hold, administer and/or liquidate all or substantially all of its property, (iii) filed or had filed against it a petition seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief, (iv) under the provisions of any other law for the relief or aid of debtors, had an action taken by any court of competent jurisdiction that allows such court to assume custody or control of it or of the whole or any substantial part of its property or assets, or (v) made an assignment for the benefit of creditors, or admitted, in writing or in any legal proceeding, its insolvency or inability to pay its debts as they become due.

7.5 **Litigation.** There is no pending action, suit, arbitration, unsatisfied order or judgment, litigation, government investigation or proceeding against or affecting the Buyer that would materially detrimentally affect the Buyer's ability to perform hereunder.

8. **Closing.** The closing of the sale and delivery of the closing documents, as applicable, and release of the Purchase Price to the Seller (the "**Closing**") shall take place at the offices of the Title Company within thirty (30) days from the date the City Manager of the City of El Paso executes the signature block herein below upon the adoption by the City Council of the City of El Paso of an ordinance authorizing the sale of the Property by the Seller to the Buyer (the "**Approval Date**").

8.1 **Amount of Payment of Purchase Price.** The full amount of the Purchase Price shall be tendered to Seller at the Closing.

8.2 **Closing Costs.** Costs required to consummate the Closing shall be paid by the Parties as follows:

- (a) The Buyer shall pay all costs required to consummate the Closing, including without limitation:
  - (i) Any and all recording fees arising from the recordation of documents necessary to show good title to the Property in the Buyer;
  - (ii) Any and all premiums and other charges for the issuance of the Owner's Policy of Title Insurance for the Property; and
  - (iii) Any and all escrow fees.
- (b) Buyer shall pay any and all real estate appraisal costs and surveys fees.
- (c) All other costs and expenses incurred in connection with this Agreement that are not expressly recited herein to be the obligation of Seller or Buyer shall be allocated among the

Buyer and the Seller as is customary in real estate transactions closing in Dona Ana County, New Mexico.

**8.3 Conditions to the Seller's Obligation to Close.** The obligation of the Seller hereunder to consummate the Closing is subject to the satisfaction of the following conditions: (i) the occurrence of the conditions required to establish the Approval Date; (ii) the performance of all of the Buyer's obligations under this Agreement; and (iii) the Seller is satisfied that all of the Buyer's representations and warranties herein made are true and correct. In the event any of these conditions are not satisfied on or before the Closing, or within one (1) year of the Effective Date, subject to applicable law, the Seller may, in its sole discretion, waive one or more of said conditions and proceed to Closing, or terminate this Agreement.

**8.4 Seller's Obligations.** At the Closing, Seller shall deliver to Escrow Agent in accordance with this Agreement, duly executed and, where applicable, acknowledged:

- (a) The deed to the Property, in the form attached hereto as **Exhibit C** (the "**Deed**"), (subject to the Permitted Exceptions and to such changes that are required by applicable law, local recording requirements and/or customary real estate practices in the jurisdiction(s) in which the Property is located, provided, the substantive terms and provisions of the Deed attached hereto are not modified as a result of any such changes);
- (b) Such agreements, affidavits or other documents as may be required by the Title Company to issue the Owner's Policy to Buyer at Closing, subject only to the Permitted Exceptions and to eliminate such standard exceptions and to issue such endorsements thereto which may be eliminated and issued under applicable State law, and which are customarily required by institutional investors purchasing property comparable to the Property;
- (c) All original warranties and guaranties, if any, in Seller's possession or reasonably available to Seller;
- (d) The metes and bounds survey of the Seller's Reservations, if applicable; and
- (e) Any other document or instrument reasonably necessary or required to consummate the transactions contemplated by this Agreement.

**8.5 Buyer's Obligations.** At the Closing, the Buyer shall:

- (a) Pay the Purchase Price;
- (b) Deliver any other document or instrument reasonably necessary or required to consummate the transactions contemplated by this Agreement, duly executed and acknowledged, where applicable; and
- (c) Execute a final closing statement reflecting the Purchase Price, including any adjustments and prorations.

**8.6 Possession.** Possession of the Property will be transferred to the Buyer at Closing.

**8.7 Broker's Fees.** To the extent permitted by law, each Party agrees to release, protect, indemnify, defend and hold the other harmless from and against any and all claims with respect to any commissions, finders' fees or other remuneration due to any broker, agent or finder claiming

by, through or under such Party.

## 9. Default.

9.1 **Default by the Buyer.** If Buyer defaults in its obligations hereunder to deliver the Purchase Price at the time required by this Agreement and close on the purchase of the Property at Closing on the Approval Date, then Seller shall be entitled to terminate this Agreement, thereby releasing the Buyer from its obligations hereunder except those which expressly survive the expiration or termination of this Agreement; and Buyer shall thus forfeit the Earnest Money, and Escrow Agent shall deliver the Earnest Money to Seller, and neither Party shall be obligated to proceed with the purchase and sale of the Property. If Buyer defaults in any of its other representations, warranties or obligations under this Agreement, and such default continues for more than ten (10) days after written notice from Seller, then Seller shall be entitled to terminate this Agreement thereby releasing the Buyer from its obligations hereunder except those which expressly survive the expiration or termination of this Agreement; Buyer shall thus forfeit the Earnest Money, and Escrow Agent shall deliver the Earnest Money Deposit to Seller, and neither Party shall be obligated to proceed with the purchase and sale of the Property.

9.2 **Default by the Seller.** If Seller, prior to the Closing, defaults in its representations, warranties, covenants, or obligations under this Agreement, including to sell the Property as required by this Agreement, then this Agreement shall terminate, and all payments and things of value provided by Buyer hereunder, including the Earnest Money, shall be returned to Buyer as its sole recoverable damages. Buyer expressly waives the remedies of specific performance and additional damages for such default by Seller.

9.3 **Recoverable Damages.** The provisions of Sections 9.1 and 9.2 shall limit the damages recoverable by either Party against the other Party due to the other Party's default or breach of the express provisions of this Agreement (except for defaults or breaches due to inaccurate or incorrect representations and warranties resulting from the intentional or knowing actions of a Party) and, in addition to such limitations, **IN NO EVENT SHALL THE SELLER OR THE BUYER BE LIABLE FOR ANY SPECIAL, DIRECT, INDIRECT, CONSEQUENTIAL, OR PUNITIVE DAMAGES.**

9.4 **Costs of Enforcement.** Any provision in this Agreement to the contrary notwithstanding, if a Party files suit to enforce or recover amounts owed under this Agreement before or after Closing or the earlier termination of this Agreement, the prevailing Party in such litigation shall be entitled to recover from the non-prevailing Party court costs and reasonable attorney's fees.

9.5 **Return of Property Information.** If Closing does not occur, Buyer shall return to Seller all Property information within seven (7) days of receipt of written demand by Seller to furnish the same.

9.6 **Liability of Parties.** Except for obligations expressly assumed or agreed to be assumed by Buyer and Seller hereunder, Buyer and Seller are not assuming any obligations of the other Party or any liability for claims arising out of any act, omission or occurrence which occurs, accrues or arises prior to the Closing Date.

## 10. Miscellaneous.

10.1 **Notice.** Any notice, demand, direction, request, or other instrument authorized or



required by this Agreement to be given to or filed with either party, shall be deemed to have been sufficiently given or filed for all purposes, if and when personally delivered or the date the same is 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. Email notice must be accompanied with another form of notice allowed hereby in order to be effective.

**SELLER:** El Paso Water Utilities Public Service Board  
John E. Balliew, President/CEO  
1154 Hawkins Blvd.  
El Paso, Texas 79925

**Copy to:** El Paso Water Utilities Public Service Board  
Attn: Alma De Anda  
Utility Land and Water Rights Manager  
1154 Hawkins Blvd.  
El Paso, TX 79925  
[ADeAnda@epwater.org](mailto:ADeAnda@epwater.org)

**BUYER:** Tyson Strain and Megan Strain  
345 Heavenly Lane  
Anthony, NM 88021  
Attn: Tyson Strain  
Phone: (575)313-6290  
Email: [megan.kuykendall@ymail.com](mailto:megan.kuykendall@ymail.com); [tstrain53@gmail.com](mailto:tstrain53@gmail.com)

**Copy to:** Gordon Davis Johnson & Shane P.C.  
4695 N. Mesa Street  
El Paso, Texas 79912  
Attn: Josh Rhoads  
Phone: (915) 545-1133  
Email: [jrhoads@eplawyers.com](mailto:jrhoads@eplawyers.com).

**10.2 Entire Agreement/ Governing Law.** This Agreement constitutes the entire agreement between the Parties, and supersedes all prior agreements and understandings, written or oral, regarding the subject matter of this Agreement, and may be amended or supplemented only by an instrument in writing, executed by the Party against whom enforcement is sought. This Agreement shall be governed in all respects, including validity, interpretation, and effect, by and shall be enforceable in accordance with the laws of the State of New Mexico with jurisdiction in courts of competent jurisdiction of Dona Ana County, New Mexico.

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

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

**10.5 Survival of Provisions.** The terms contained in all of Section 1; Section 2; Section 3, Section 5; Section 7; *Section* 8; and Section 9; as well as Section 10.1, 10.2, 10.3, 10.4,

10.5, 10.6, 10.7, 10.8, 10.9, 10.10, 10.11 and 10.12 of this Agreement, 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 Agreement, which will be construed as if the invalid or unenforceable provision had never existed.

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

10.7        **"AS IS, WHERE IS".** THIS AGREEMENT 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 AND EXCEPT FOR THE WARRANTIES AND REPRESENTATIONS SET FORTH IN THIS AGREEMENT, WITHOUT ANY REPRESENTATIONS OR WARRANTIES OF WHATSOEVER KIND, EXPRESS OR IMPLIED, WRITTEN OR ORAL, IT BEING THE INTENTION OF THE SELLER AND THE BUYER TO EXPRESSLY NEGATE AND EXCLUDE ALL REPRESENTATIONS AND WARRANTIES OF ANY KIND, INCLUDING, BUT NOT LIMITED TO THOSE REGARDING: (A) THE CONDITION OF THE PROPERTY; (B) THE SUITABILITY OF THE PROPERTY FOR ANY AND ALL ACTIVITIES AND USES WHICH THE BUYER MAY CONDUCT THEREON; (C) THE COMPLIANCE OF OR BY THE PROPERTY OR ITS OPERATION WITH ANY LAWS, RULES, ORDINANCES OR REGULATIONS OF ANY APPLICABLE GOVERNMENTAL AUTHORITY OR BODY; AND (D) THE HABITABILITY, MERCHANTABILITY, MARKETABILITY, PROFITABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE PROPERTY. THE BUYER FURTHER ACKNOWLEDGES AND AGREES THAT, HAVING BEEN GIVEN THE OPPORTUNITY TO INSPECT THE PROPERTY, THE BUYER IS RELYING SOLELY ON ITS OWN INVESTIGATION OF THE PROPERTY AND NOT ON ANY INFORMATION PROVIDED BY THE SELLER. THE BUYER FURTHER ACKNOWLEDGES AND AGREES THAT ANY INFORMATION PROVIDED BY THE SELLER WITH RESPECT TO THE PROPERTY WAS OBTAINED FROM A VARIETY OF SOURCES AND THAT THE SELLER 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 SELLER 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. THE BUYER ACKNOWLEDGES AND AGREES THAT THE DISCLAIMERS, WAIVERS AND OTHER AGREEMENTS SET FORTH HEREIN ARE INTEGRAL PARTS OF THE AGREEMENT BETWEEN THE SELLER AND THE BUYER WITH RESPECT TO THE SALE OF THE PROPERTY, AND THAT THE SELLER WOULD NOT HAVE AGREED TO SELL THE PROPERTY TO THE BUYER FOR THE PURCHASE PRICE WITHOUT THE DISCLAIMERS AND OTHER AGREEMENTS SET FORTH ABOVE.

10.8        **ENVIRONMENTAL MATTERS.** AFTER CLOSING, BETWEEN THE SELLER AND THE BUYER, THE RISK OF LIABILITY OR EXPENSE FOR ENVIRONMENTAL PROBLEMS, IF ANY, 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 SELLER 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.

10.9 **Effective Date.** As used herein, "**Effective Date**" means the date this Agreement is receipted by the Title Company on the space provided for in this Agreement.

10.10 **Assignment.** The Buyer shall have the right to assign this Agreement or any of its rights hereunder to an affiliate of the Buyer only with the prior written consent of the Seller; provided, however, that (i) such assignee shall assume all of the obligations of the Buyer hereunder, (ii) the Buyer shall remain liable for all of its duties and obligations hereunder, and (iii) the Buyer shall deliver written notice of the assignment, including a copy of the assignment instrument, to the Seller at least three (3) days prior to the Closing.

10.11 **Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same document. Faxed and emailed signature pages may be accepted as originals.

10.12 **Successors and Assigns.** This Agreement shall inure to the benefit of and be binding upon the heirs, personal representatives, administrators, successors, and assigns, as applicable of the respective Parties hereto.

*[Signatures Begin on the Following Page]*

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be duly executed as of the date written below each Party's signature below, but to be effective as of the Effective Date.

**SELLER:**

**EL PASO WATER UTILITIES  
PUBLIC SERVICE BOARD**, for and on  
behalf of THE CITY OF EL PASO, a Texas  
municipal corporation

By: [Signature]  
John E. Balliew  
President/CEO

Executed on: 3/22/24

**APPROVED AS TO FORM:**

[Signature]  
Melinda Becker  
Assistant General Counsel

**APPROVED AS TO CONTENT:**

[Signature]  
Alma De Anda  
Utility Land and Water Rights Manager

#### ACKNOWLEDGEMENT

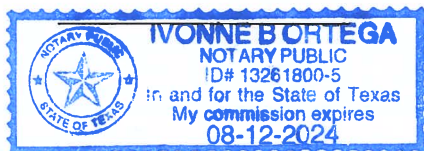
STATE OF TEXAS           §

COUNTY OF EL PASO   §

This instrument was acknowledged before me on the 27<sup>th</sup> day of March, 2024, by John E. Balliew, President/CEO of the El Paso Water Utilities Public Service Board.

[Signature]  
Notary Public, State of Texas

My Commission Expires:



*[Signatures Continue on the Following Page]*

BUYER:

TYSON STRAIN

Tyson W Strain

Executed on: March 25, 2024

ACKNOWLEDGEMENT

STATE OF Texas

§

COUNTY OF El Paso

§

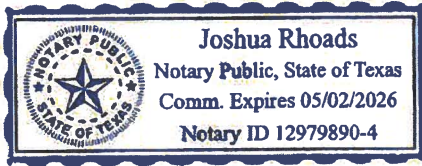
§

This instrument was acknowledged before me on the 25<sup>th</sup> day of March, 2024, by Tyson Strain.

My Commission Expires:

05-02-2026

Joshua Rhoads  
Notary Public, State of Texas



MEGAN STRAIN

Megan Strain

Executed on: March 25, 2024

ACKNOWLEDGEMENT

STATE OF Texas

§

COUNTY OF El Paso

§

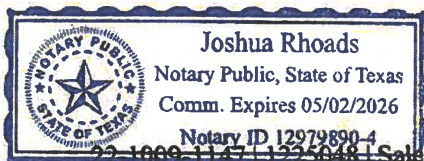
§

This instrument was acknowledged before me on the 25<sup>th</sup> day of March, 2024, by Megan Strain.

My Commission Expires:

05-02-2026

Joshua Rhoads  
Notary Public, State of Texas



22-1000-1147-1225048 | Sale to Tyson & Mega Strain


12

This Agreement has been received and reviewed by the City of El Paso, Texas and the undersigned has been authorized by the City Council of the City of El Paso, Texas to execute the Deed pursuant to the terms of this Agreement on the \_\_\_\_ day of \_\_\_\_\_, 202\_\_, which shall be the *Approval Date* for the purpose described herein.

**THE CITY OF EL PASO, TEXAS,**  
a Texas municipal corporation,

By: \_\_\_\_\_  
Cary Westin  
City Manager

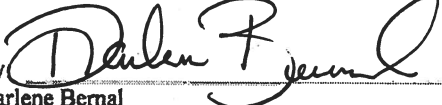
**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Roberta Brito  
Senior Assistant City Attorney

This Agreement has been received and reviewed by the Title Company this the 2<sup>nd</sup> day of April, 2024. The Title Company acknowledges that all information furnished to it by the parties or obtained by the Title Company in the course of performing its duties, including acting as the Escrow Agent for the parties, under the Agreement will be treated as confidential information.

**TITLE COMPANY:**

**Las Cruces Abstract & Title Company**

By 

Darlene Bernal  
Escrow Officer



## EXHIBIT A



ROMAN BUSTILLOS, P.E.  
President  
RANDY F. BRULIN, P.E.  
Executive Vice President  
SERGIO J. ADAME, P.E.  
Vice President - Engineering  
ALEXON ALVARADO, R.P.L.S.  
Vice President - Surveying  
TSPS Reg. No. F-737  
TSPS Reg. No. 101314 00

### METES AND BOUNDS DESCRIPTION

*A 16.2097 acres parcel situate northeast of La Union, Doña Ana County, New Mexico as a portion of Section 9, Township 27 South, Range 3 East, N.M.P.M, and being more particularly described by metes and bounds as follows.*

**COMMENCING** at a Texas-New Mexico State Line Monument No. 9, concrete monument brass disk found; **THENCE**, following the Texas-New Mexico State Line, South 52°40'31" East, a distance of 561.58 feet to a 1/2 inch rebar with survey cap No. "NM 21400" set on the south right-of-way line of Doña Ana County Road A-49 (50 feet wide) for the northeasterly corner and the **POINT OF BEGINNING** of the parcel herein described, identical to the northwesterly corner of Tract 1, Block 20, Upper Valley Grant Surveys as described in Book 2093, Page 691, El Paso County Deed Records;

**THENCE**, leaving the south right-of-way line of said Doña Ana County Road A-49 and continuing along the Texas-New Mexico State Line, South 52°40'31" East (South 52°50'02" East-record), a distance of 49.21 feet to a Texas-New Mexico State Line Monument No. 10, broken concrete monument found for an angle point of the parcel herein described;

**THENCE**, continuing along the Texas-New Mexico State Line, South 46°44'35" East (South 46°56'20" East-record), a distance of 1,070.23 feet (1,069.80 feet-record) to an 8 inch diameter concrete monument stamped "1963" found for the southeasterly corner of the parcel herein described, identical to the southwesterly corner of said Tract 1;

**THENCE**, leaving the Texas-New Mexico State Line, South 68°16'51" West (South 68°06'00" West-record), a distance of 529.58 feet (524.65 feet-record) to an 8 inch diameter concrete monument stamped "1963" found for the southwesterly corner of the parcel herein described, identical to the southeasterly corner of a 8.186 acres parcel as described in Instrument No. 1707880, Doña Ana County Deed Records;

**THENCE**, North 45°40'27" West (North 46°07'00" West-record), a distance of 881.42 feet (882.68 feet-record) to an old 5/8 inch rebar found for an angle point of the parcel herein described, identical to the northeasterly corner of said 8.186 acres parcel;

**THENCE**, South 82°58'38" West (South 82°48'00" West-record), a distance of 380.10 feet (380.17 feet-record) to an old 5/8 inch rebar found on the westerly right-of-way line of the La Union Main Canal for an angle point of the parcel herein described, identical to the northwesterly corner of said 8.186 acres parcel;

**THENCE**, following the easterly right-of-way line of said La Union Main Canal, North 19°34'50" West (North 19°51'03" West-record), a distance of 455.34 feet to a 1/2 inch rebar with survey cap

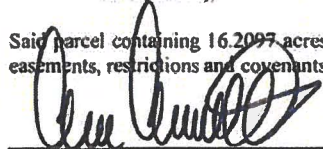
417 Executive Center Blvd. • El Paso, Texas 79902 • P (915) 542-4900 • F (915) 542-2867 • www.brockbustillos.com



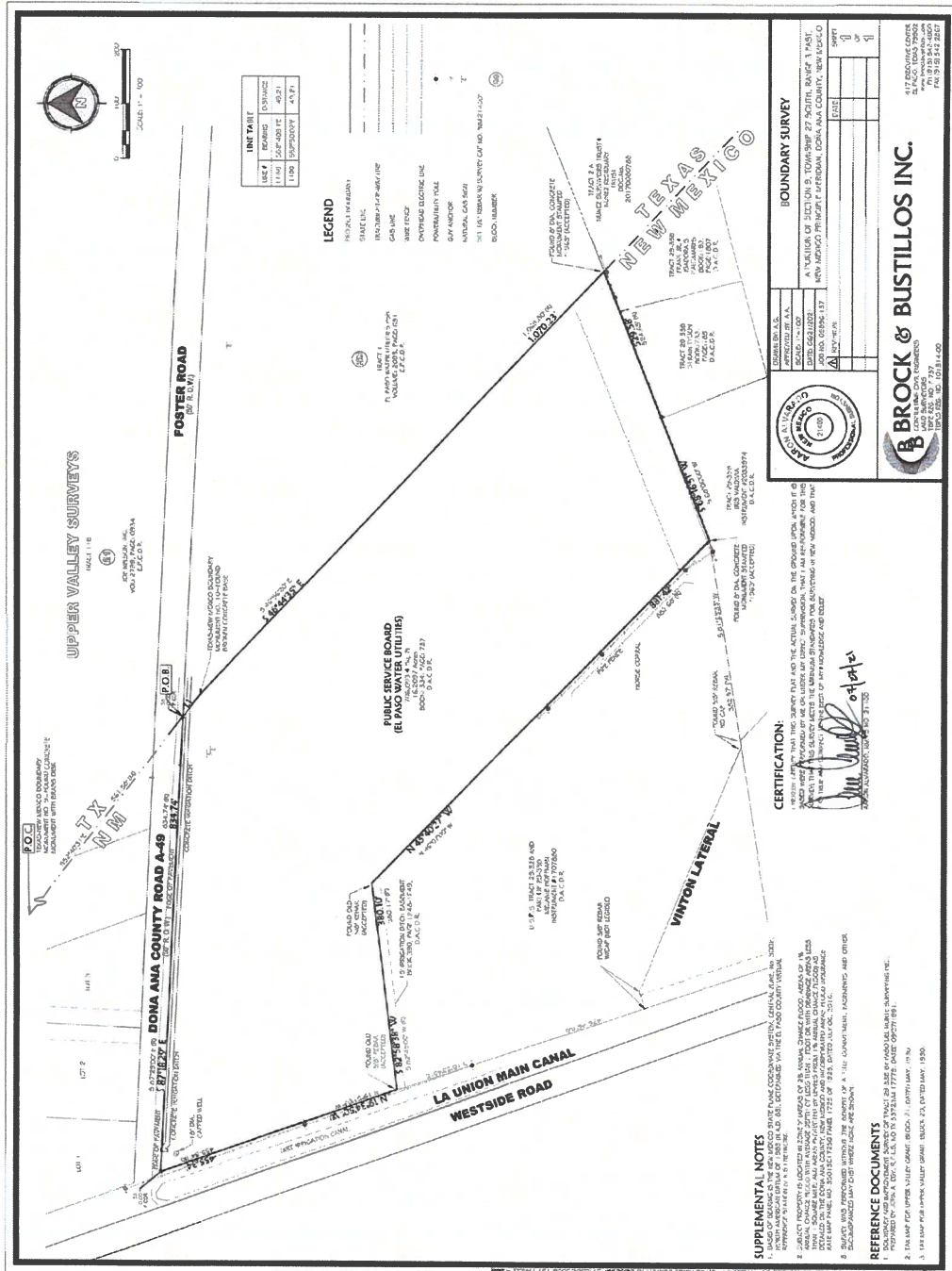
No. "NM 21400" set on the southerly right-of-way line of said Doña Ana County Road A-49 for the northwesterly corner of the parcel herein described;

**THENCE**, leaving the easterly right-of-way line of said La Union Main Canal and following the southerly right-of-way line of said Doña Ana County Road A-49, South 87°18'29" East (South 87°29'00" East-record), a distance of 834.74 feet to the **POINT OF BEGINNING**.

Said parcel containing 16.2097 acres (706,093.4 square feet), more or less, and being subject to all easements, restrictions and covenants of record.

  
\_\_\_\_\_  
Aaron Alvarado, NM P.S. No. 21400  
Date: July 27, 2021  
05896-137-16.2097 AC-DESC





**EXHIBIT B**  
**Seller's Reservations & Disclosures**

Reservations: N/A

Disclosures: Water Rights 16.15 acres – La Union East Lateral  
Elephant Butte Irrigation District under permitted water rights LRG-4936

**EXHIBIT C**  
**Deed**

**SPECIAL WARRANTY DEED**

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

**Effective Date:** \_\_\_\_\_.

**Grantor:**       **EL PASO WATER UTILITIES PUBLIC SERVICE BOARD THE CITY OF EL PASO, TEXAS**, a Texas municipal corporation  
1154 Hawkins Blvd.  
El Paso, Texas 79925

**Grantee:**       Tyson and Megan Strain  
345 Heavenly Lane  
Anthony, NM 88021  
Attn: Tyson Strain  
Phone: (575)313-6290

**Consideration:** TEN AND NO/100THS DOLLARS (\$10.00), and other good and valuable consideration to the undersigned paid by Grantee, the receipt of which is hereby acknowledged.

**Property (including any improvements):**

A parcel of land consisting of approximately 16.2097 acres of land legally described as a portion of Section 9, Township 27, South Range 3 East, New Mexico Principal Meridian, Doña Ana County, New Mexico, such portion being legally described by metes and bounds in **Exhibit A**, attached hereto.

All permitted water rights under permit LRG-4936 for irrigation, domestic use, livestock use, industrial use, and any other purpose of use recognized by the New Mexico Office of the State Engineer and the Courts of New Mexico, and otherwise appurtenant to or in any manner associated with the Land and its use, including but not limited to all vested or unvested surface and groundwater rights, either declared, licensed, permitted, adjudicated or undeclared with the New Mexico Office of the State Engineer (the "***Water Rights***") (collectively, the "**Property**")

**GRANTOR AND GRANTEE AGREE THAT GRANTEE IS ACCEPTING THE PROPERTY FROM GRANTOR IN ITS "AS IS, WHERE IS, AND WITH ALL FAULTS" CONDITION AND THAT THERE ARE NO REPRESENTATIONS OR EXPRESS OR IMPLIED WARRANTIES, EXCEPT THE SPECIAL WARRANTY OF TITLE CONTAINED IN THIS DEED. GRANTEE HAS NOT RELIED ON ANY INFORMATION OTHER THAN GRANTEE'S**

#### **INSPECTION OF THE PROPERTY.**

Grantor, 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 the Property unto Grantee and Grantee's successors and assigns forever. Grantor binds Grantor and Grantor's successors and assigns to warrant and forever defend all and singular the Property unto 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..

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

*(Signature page and exhibits follow.)*

**EXECUTED** to be effective as of the date first stated above.

**GRANTOR:**

**THE CITY OF EL PASO,  
a Texas municipal corporation**

By: \_\_\_\_\_  
Name: Cary Westin  
Title: Interim City Manager

THE STATE OF TEXAS           §  
  §  
COUNTY OF EL PASO         §

This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_,  
2024 by Cary Westin, Interim City Manager of the City of El Paso.

\_\_\_\_\_  
**NOTARY PUBLIC, State of Texas**



## 13.14.18.13 NM FORM 6 COMMITMENT FOR TITLE INSURANCE

ISSUED BY  
STEWART TITLE GUARANTY COMPANY

### NOTICE

**IMPORTANT - READ CAREFULLY:** THIS COMMITMENT IS AN OFFER TO ISSUE ONE OR MORE TITLE INSURANCE POLICIES. ALL CLAIMS OR REMEDIES SOUGHT AGAINST THE COMPANY INVOLVING THE CONTENT OF THIS COMMITMENT OR THE POLICY MUST BE BASED SOLELY IN CONTRACT.

THIS COMMITMENT IS NOT AN ABSTRACT OF TITLE, REPORT OF THE CONDITION OF TITLE, LEGAL OPINION, OPINION OF TITLE, OR OTHER REPRESENTATION OF THE STATUS OF TITLE. THE PROCEDURES USED BY THE COMPANY TO DETERMINE INSURABILITY OF THE TITLE, INCLUDING ANY SEARCH AND EXAMINATION, ARE PROPRIETARY TO THE COMPANY, WERE PERFORMED SOLELY FOR THE BENEFIT OF THE COMPANY, AND CREATE NO EXTRACONTRACTUAL LIABILITY TO ANY PERSON, INCLUDING A PROPOSED INSURED.

THE COMPANY'S OBLIGATION UNDER THIS COMMITMENT IS TO ISSUE A POLICY TO A PROPOSED INSURED IDENTIFIED IN SCHEDULE A IN ACCORDANCE WITH THE TERMS AND PROVISIONS OF THIS COMMITMENT. THE COMPANY HAS NO LIABILITY OR OBLIGATION INVOLVING THE CONTENT OF THIS COMMITMENT TO ANY OTHER PERSON.

### COMMITMENT TO ISSUE POLICY

Subject to the Notice; Schedule B, Part I - Requirements; Schedule B, Part II - Exceptions; and the Commitment Conditions, STEWART TITLE GUARANTY COMPANY, a Texas corporation (the "Company"), commits to issue the Policy according to the terms and provisions of this Commitment. This Commitment is effective as of the Commitment Date shown in Schedule A for each Policy described in Schedule A, only when the Company has entered in Schedule A both the specified dollar amount as the Proposed Policy Amount and the name of the Proposed Insured.

If all of the Schedule B, Part I - Requirements have not been met within six (6) months after the Commitment Date, this Commitment terminates and the Company's liability and obligation end.

Authorized Countersignature  
TCNM, LLC DBA Las Cruces Abstract  
and Title Company  
119 S Campo Street  
Las Cruces, NM 88001



Frederick H. Eppinger  
President and CEO

David Hisey  
Secretary

*This page is only a part of a 2016 ALTA® Commitment for Title Insurance. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I - Requirements; and Schedule B, Part II - Exceptions; and a countersignature by the Company or its issuing agent that may be in electronic form.*

Copyright 2006-2016 American Land Title Association. All rights reserved.

The use of this Form (or any derivative thereof) is restricted to ALTA licensees and ALTA members in good standing as of the date of use. All other uses are prohibited. Reprinted under license from the American Land Title Association.

File No.: 2151996

13.14.18.13 NM Form 6 Commitment for Title Insurance 8-1-16 Modified 7-1-18

Page 1 of 3

AMERICAN  
LAND TITLE  
ASSOCIATION



## COMMITMENT CONDITIONS

### 1. DEFINITIONS

- (a) "Knowledge" or "Known": Actual or imputed knowledge, but not constructive notice imparted by the Public Records.
  - (b) "Land": The land described in Schedule A and affixed improvements that by law constitute real property. The term "Land" does not include any property beyond the lines of the area described in Schedule A, nor any right, title, interest, estate, or easement in abutting streets, roads, avenues, alleys, lanes, ways, or waterways, but this does not modify or limit the extent that a right of access to and from the Land is to be insured by the Policy.
  - (c) "Mortgage": A mortgage, deed of trust, or other security instrument, including one evidenced by electronic means authorized by law.
  - (d) "Policy": Each contract of title insurance, in a form adopted by the American Land Title Association, issued or to be issued by the Company pursuant to this Commitment.
  - (e) "Proposed Insured": Each person identified in Schedule A as the Proposed Insured of each Policy to be issued pursuant to this Commitment.
  - (f) "Proposed Policy Amount": Each dollar amount specified in Schedule A as the Proposed Policy Amount of each Policy to be issued pursuant to this Commitment.
  - (g) "Public Records": Records established under state statutes at the Commitment Date for the purpose of imparting constructive notice of matters relating to real property to purchasers for value and without Knowledge.
  - (h) "Title": The estate or interest described in Schedule A.
2. If all of the Schedule B, Part I - Requirements have not been met within the time period specified in the Commitment to Issue Policy, this Commitment terminates and the Company's liability and obligation end.
3. The Company's liability and obligation is limited by and this Commitment is not valid without:
- (a) the Notice;
  - (b) the Commitment to Issue Policy;
  - (c) the Commitment Conditions;
  - (d) Schedule A;
  - (e) Schedule B, Part I - Requirements;
  - (f) Schedule B, Part II - Exceptions; and
  - (g) a countersignature by the Company or its issuing agent that may be in electronic form.

### 4. COMPANY'S RIGHT TO AMEND

The Company may amend this Commitment at any time. If the Company amends this Commitment to add a defect, lien, encumbrance, adverse claim, or other matter recorded in the Public Records prior to the Commitment Date, any liability of the Company is limited by Commitment Condition 5. The Company shall not be liable for any other amendment to this Commitment.

### 5. LIMITATIONS OF LIABILITY

- (a) The Company's liability under Commitment Condition 4 is limited to the Proposed Insured's actual expense incurred in the interval between the Company's delivery to the Proposed Insured of the Commitment and the delivery of the amended Commitment, resulting from the Proposed Insured's good faith reliance to:
  - (i) comply with the Schedule B, Part I - Requirements;
  - (ii) eliminate, with the Company's written consent, any Schedule B, Part II - Exceptions; or
  - (iii) acquire the Title or create the Mortgage covered by this Commitment.
- (b) The Company shall not be liable under Commitment Condition 5(a) if the Proposed Insured requested the amendment or had Knowledge of the matter and did not notify the Company about it in writing.
- (c) The Company will only have liability under Commitment Condition 4 if the Proposed Insured would not have incurred the expense had the Commitment included the added matter when the Commitment was first delivered to the Proposed Insured.

*This page is only a part of a 2016 ALTA® Commitment for Title Insurance. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I - Requirements; and Schedule B, Part II - Exceptions; and a countersignature by the Company or its issuing agent that may be in electronic form.*

**Copyright 2006-2016 American Land Title Association. All rights reserved.**

The use of this Form (or any derivative thereof) is restricted to ALTA licensees and ALTA members in good standing as of the date of use. All other uses are prohibited. Reprinted under license from the American Land Title Association.

File No.: 2151996

13.14.18.13 NM Form 6 Commitment for Title Insurance 8-1-16 Modified 7-1-18

Page 2 of 3





- (d) The Company's liability shall not exceed the lesser of the Proposed Insured's actual expense incurred in good faith and described in Commitment Conditions 5(a)(i) through 5(a)(iii) or the Proposed Policy Amount.
- (e) The Company shall not be liable for the content of the Transaction Identification Data, if any.
- (f) In no event shall the Company be obligated to issue the Policy referred to in this Commitment unless all of the Schedule B, Part I - Requirements have been met to the satisfaction of the Company.
- (g) In any event, the Company's liability is limited by the terms and provisions of the Policy.

**6. LIABILITY OF THE COMPANY MUST BE BASED ON THIS COMMITMENT**

- (a) Only a Proposed Insured identified in Schedule A, and no other person, may make a claim under this Commitment.
- (b) Any claim must be based in contract and must be restricted solely to the terms and provisions of this Commitment.
- (c) Until the Policy is issued, this Commitment, as last revised, is the exclusive and entire agreement between the parties with respect to the subject matter of this Commitment and supersedes all prior commitment negotiations, representations, and proposals of any kind, whether written or oral, express or implied, relating to the subject matter of this Commitment.
- (d) The deletion or modification of any Schedule B, Part II - Exception does not constitute an agreement or obligation to provide coverage beyond the terms and provisions of this Commitment or the Policy.
- (e) Any amendment or endorsement to this Commitment must be in writing and authenticated by a person authorized by the Company.
- (f) When the Policy is issued, all liability and obligation under this Commitment will end and the Company's only liability will be under the Policy.

**7. IF THIS COMMITMENT HAS BEEN ISSUED BY AN ISSUING AGENT**

The issuing agent is the Company's agent only for the limited purpose of issuing title insurance commitments and policies. The issuing agent is not the Company's agent for the purpose of providing closing or settlement services.

**8. PRO-FORMA POLICY**

The Company may provide, at the request of a Proposed Insured, a pro-forma policy illustrating the coverage that the Company may provide. A pro-forma policy neither reflects the status of Title at the time that the pro-forma policy is delivered to a Proposed Insured, nor is it a commitment to insure.

## **STEWART TITLE GUARANTY COMPANY**

All notices required to be given the Company and any statement in writing required to be furnished the Company shall be addressed to it at P.O. Box 2029, Houston, Texas 77252-2029.

*This page is only a part of a 2016 ALTA® Commitment for Title Insurance. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I - Requirements; and Schedule B, Part II - Exceptions; and a countersignature by the Company or its issuing agent that may be in electronic form.*

**Copyright 2006-2016 American Land Title Association. All rights reserved.**

The use of this Form (or any derivative thereof) is restricted to ALTA licensees and ALTA members in good standing as of the date of use. All other uses are prohibited. Reprinted under license from the American Land Title Association.

File No.: 2151996

13.14.18.13 NM Form 6 Commitment for Title Insurance 8-1-16 Modified 7-1-18

Page 3 of 3



*Pursuant to the New Mexico title insurance law Section 59A-30-4 NMSA 1978, and title insurance rule 13.14.18.9 NMAC, no part of any title insurance commitment, policy or endorsement form promulgated by the New Mexico superintendent of insurance may be added to, altered, inserted in or typed upon, deleted or otherwise changed from the title insurance form promulgated by the New Mexico superintendent of insurance, nor issued by a person or company not licensed with regard to the business of title insurance by the New Mexico superintendent of insurance, nor issued by a person or company who does not own, operate or control an approved title abstract plant as defined by New Mexico law and regulations for the county wherein the property is located, except as authorized by law.*

## **13.14.18.13 NM FORM 6 COMMITMENT FOR TITLE INSURANCE SCHEDULE A**

ISSUED BY  
STEWART TITLE GUARANTY COMPANY

### ***Transaction Identification Data for reference only:***

Issuing Agent: TCNM, LLC DBA Las Cruces Abstract and Title Company  
Issuing Office: 119 S Campo Street, Las Cruces, NM 88001  
Issuing Office's ALTA® Registry ID:  
Loan ID Number:  
Commitment Number: 2151996  
Issuing Office File Number: 2151996  
Property Address: 16.2097 acres SE Corner of Foster Road & Westside Road, Dona Ana, NM 88032  
Revision Number:

1. Commitment Date: October 23, 2023 at 6:00AM
2. Policy to be issued: Proposed Policy Amount  

(a) ALTA Owner's Standard	\$360,000.00
Proposed Insured: Tyson Strain and Megan Strain	
(b) ALTA Loan Standard	
Proposed Insured: This title commitment is not effective until schedule A is completed and the company reserves the right to amend and supplement this commitment with additional information, requirements and exceptions based upon the provision of additional information.	
3. The estate or interest in the Land described or referred to in this Commitment is:  
  
FEE SIMPLE
4. The Title is, at the Commitment Date, vested in:  
  
Public Service Board (El Paso Water Utilities)
5. The Land is described as follows:  
  
See Exhibit "A" Attached Hereto

### **STEWART TITLE GUARANTY COMPANY**



Authorized Countersignature  
TCNM, LLC DBA Las Cruces Abstract and Title Company  
119 S Campo Street  
Las Cruces, NM 88001

*This page is only a part of a 2016 ALTA® Commitment for Title Insurance. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I - Requirements; and Schedule B, Part II - Exceptions; and a countersignature by the Company or its issuing agent that may be in electronic form.*

**Copyright 2006-2016 American Land Title Association. All rights reserved.**

The use of this Form (or any derivative thereof) is restricted to ALTA licensees and ALTA members in good standing as of the date of use. All other uses are prohibited. Reprinted under license from the American Land Title Association.

File No.: 2151996

13.14.18.13 NM Form 6 Commitment for Title Insurance Schedules 8-1-16 Modified 7-1-18

Page 1 of 8



*Pursuant to the New Mexico title insurance law Section 59A-30-4 NMSA 1978, and title insurance rule 13.14.18.9 NMAC, no part of any title insurance commitment, policy or endorsement form promulgated by the New Mexico superintendent of insurance may be added to, altered, inserted in or typed upon, deleted or otherwise changed from the title insurance form promulgated by the New Mexico superintendent of insurance, nor issued by a person or company not licensed with regard to the business of title insurance by the New Mexico superintendent of insurance, nor issued by a person or company who does not own, operate or control an approved title abstract plant as defined by New Mexico law and regulations for the county wherein the property is located, except as authorized by law.*

## **13.14.18.13 NM FORM 6 COMMITMENT FOR TITLE INSURANCE SCHEDULE A**

ISSUED BY  
STEWART TITLE GUARANTY COMPANY

*This page is only a part of a 2016 ALTA® Commitment for Title Insurance. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I - Requirements; and Schedule B, Part II - Exceptions; and a countersignature by the Company or its issuing agent that may be in electronic form.*

**Copyright 2006-2016 American Land Title Association. All rights reserved.**

The use of this Form (or any derivative thereof) is restricted to ALTA licensees and ALTA members in good standing as of the date of use. All other uses are prohibited. Reprinted under license from the American Land Title Association.

File No.: 2151996

13.14.18.13 NM Form 6 Commitment for Title Insurance Schedules 8-1-16 Modified 7-1-18

Page 2 of 8

AMERICAN  
LAND TITLE  
ASSOCIATION



# 13.14.18.13 NM FORM 6 COMMITMENT FOR TITLE INSURANCE

## EXHIBIT "A"

### LEGAL DESCRIPTION

ISSUED BY

STEWART TITLE GUARANTY COMPANY

File No.: 2151996

A tract of land northeast of La Union, Dona Ana County, New Mexico as a portion of Section 9, Township 27 South, Range 3 East, N.M.P.M. and being more particularly described by metes and bounds as follows:

COMMENCING at a Texas-New Mexico State Line Monument No. 9, concrete monument brass disk found; Thence, the following Texas-New Mexico State Line, South 52°40'31"E., a distance of 561.68 feet to a 1/2 inch rebar with survey cap No. "NM 21400" set on the south right-of-way line of Dona Ana County Road A-49 (50 feet wide) for the northeasterly corner and the POINT OF BEGINNING of the parcel herein described, identical to the northwesterly corner of Tract 1, Block 20, Upper Valley Grant Surveys as described in Book 2093, Page 691, El Paso County Deed Records;

THENCE, leaving the south right-of-way line of said Dona Ana County Road A-49 and continuing along the Texas-New Mexico State Line, South 52°50'02"E (South 52°50'02" East-record), a distance of 49.21 feet to a Texas-New Mexico State Line Monument No. 10, broken concrete monument found for an angle point of the parcel herein described;

THENCE, continuing along the Texas-New Mexico State Line, South 46°44'35"E (South 46°56'20" East-record), a distance of 1,070.23 feet (1,069.80 feet-record) to an 8 inch diameter concrete monument stamped "1963" found for the southeasterly corner of the parcel herein described, identical to the southwesterly corner of said Tract 1;

THENCE, leaving the Texas-New Mexico State Line, South 68°16'51"W (South 68°6'00" West-record), a distance of 529.58 feet (524.65 feet record) to an 8 inch diameter concrete monument stamped "1963" found for the southwesterly corner of the parcel herein described, identical to the southeasterly corner of a 8.186 acre parcel as described in Instrument No. 1707880, Dona Ana County Deed Records;

THENCE, North 45°40'27"W (North 46°07'00" West-record), a distance of 881.42 feet (882.68 feet-record) to an old 5/8 inch rebar found for an angle point of the parcel herein described, identical to the northeasterly corner of said 8.186 acre parcel;

THENCE, South 82°58'38"W (South 82°48'00" West-record), a distance of 380.10 feet (380.17 feet-record) to an old 5/8 inch rebar found on the westerly right-of-way line of the La Union Main Canal for an angle point of the parcel herein described, identical to the northwesterly corner of said 8.186 acre parcel;

THENCE, following the easterly right-of-way line of said La Union Main Canal North 19°34'50"W (North 19°51'03" West-record), a distance of 455.34 feet to a 1/2 inch rebar with survey cap No. "NM 21400" set on the southerly right-of-way line of said Dona Ana County Road A-49 for the northwesterly corner of the parcel herein described;

THENCE, leaving the easterly right-of-way line of said La Union Main Canal and following the southerly right-of-way line of said Dona Ana County Road A-49, South 87°18'29"E (South 87°29'00" East-record), a distance of 834.74 feet to the POINT OF BEGINNING.

*This page is only a part of a 2016 ALTA® Commitment for Title Insurance. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I - Requirements; and Schedule B, Part II - Exceptions; and a countersignature by the Company or its issuing agent that may be in electronic form.*

**Copyright 2006-2016 American Land Title Association. All rights reserved.**

The use of this Form (or any derivative thereof) is restricted to ALTA licensees and ALTA members in good standing as of the date of use. All other uses are prohibited. Reprinted under license from the American Land Title Association.

File No.: 2151996

13.14.18.13 NM Form 6 Commitment for Title Insurance Schedules 8-1-16 Modified 7-1-18

Page 3 of 8



**13.14.18.13 NM FORM 6 COMMITMENT FOR TITLE INSURANCE**  
**EXHIBIT "A"**  
**LEGAL DESCRIPTION**

ISSUED BY  
STEWART TITLE GUARANTY COMPANY

*This page is only a part of a 2016 ALTA® Commitment for Title Insurance. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I - Requirements; and Schedule B, Part II - Exceptions; and a countersignature by the Company or its issuing agent that may be in electronic form.*

**Copyright 2006-2016 American Land Title Association. All rights reserved.**

The use of this Form (or any derivative thereof) is restricted to ALTA licensees and ALTA members in good standing as of the date of use. All other uses are prohibited. Reprinted under license from the American Land Title Association.

File No.: 2151996

13.14.18.13 NM Form 6 Commitment for Title Insurance Schedules 8-1-16 Modified 7-1-18

Page 4 of 8



# 13.14.18.13 NM FORM 6 COMMITMENT FOR TITLE INSURANCE SCHEDULE B PART I

ISSUED BY  
STEWART TITLE GUARANTY COMPANY

**File No.:** 2151996

## Requirements

All of the following Requirements must be met:

1. The Proposed Insured must notify the Company in writing of the name of any party not referred to in this Commitment who will obtain an interest in the Land or who will make a loan on the Land. The Company may then make additional Requirements or Exceptions.
2. Pay the agreed amount for the estate or interest to be insured.
3. Pay the premiums, fees, and charges for the Policy to the Company.
4. Documents satisfactory to the Company that convey the Title or create the Mortgage to be insured, or both, must be properly authorized, executed, delivered, and recorded in the Public Records.
5. Payment of the full consideration to, or for the account of, the grantors or mortgagors.
6. Payment of all taxes, charges, assessments, levied and assessed against subject premises, which are due and payable.
7. Satisfactory evidence should be had that improvements and/or repairs or alterations thereto are completed; that contractor, subcontractors, labor and materialmen are all paid.
8. Instruments necessary to create the estate or interest to be insured must be properly executed, delivered and duly filed for record, to wit:
9. Provide this Company with official identification of all parties involved in this transaction before or at closing.
10. Provide Las Cruces Abstract and Title Company with a fully executed Purchase Agreement.
11. Payment of property taxes for the year 2023.
12. Affidavit signed by the parties to the transaction as to the accuracy of the existing survey by Brock & Bustillos Inc., dated July 27, 2021.
13. Secure and file for record a Warranty Deed from PUBLIC SERVICE BOARD (EL PASO WATER UTILITIES) to TYSON STRAIN AND MEGAN STRAIN, HUSBAND AND WIFE.
14. Secure and file for record a Mortgage/Deed of Trust from TYSON STRAIN AND MEGAN STRAIN, HUSBAND AND WIFE to PROPOSED LENDER.

*This page is only a part of a 2016 ALTA® Commitment for Title Insurance. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I - Requirements; and Schedule B, Part II - Exceptions; and a countersignature by the Company or its issuing agent that may be in electronic form.*

**Copyright 2006-2016 American Land Title Association. All rights reserved.**

The use of this Form (or any derivative thereof) is restricted to ALTA licensees and ALTA members in good standing as of the date of use. All other uses are prohibited. Reprinted under license from the American Land Title Association.

File No.: 2151996

13.14.18.13 NM Form 6 Commitment for Title Insurance Schedules 8-1-16 Modified 7-1-18

Page 5 of 8



# 13.14.18.13 NM FORM 6 COMMITMENT FOR TITLE INSURANCE SCHEDULE B PART I

ISSUED BY  
STEWART TITLE GUARANTY COMPANY

15. This title commitment is not effective until schedule A is completed and the company reserves the right to amend and supplement this commitment with additional information, requirements and exceptions based upon the provision of additional information.

*This page is only a part of a 2016 ALTA® Commitment for Title Insurance. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I - Requirements; and Schedule B, Part II - Exceptions; and a countersignature by the Company or its issuing agent that may be in electronic form.*

**Copyright 2006-2016 American Land Title Association. All rights reserved.**

The use of this Form (or any derivative thereof) is restricted to ALTA licensees and ALTA members in good standing as of the date of use. All other uses are prohibited. Reprinted under license from the American Land Title Association.

File No.: 2151996

13.14.18.13 NM Form 6 Commitment for Title Insurance Schedules 8-1-16 Modified 7-1-18

Page 6 of 8



# 13.14.18.13 NM FORM 6 COMMITMENT FOR TITLE INSURANCE

## SCHEDULE B PART II

ISSUED BY  
STEWART TITLE GUARANTY COMPANY

### Exceptions

File No.: 2151996

THIS COMMITMENT DOES NOT REPUBLISH ANY COVENANT, CONDITION, RESTRICTION, OR LIMITATION CONTAINED IN ANY DOCUMENT REFERRED TO IN THIS COMMITMENT TO THE EXTENT THAT THE SPECIFIC COVENANT, CONDITION, RESTRICTION, OR LIMITATION VIOLATES STATE OR FEDERAL LAW BASED ON RACE, COLOR, RELIGION, SEX, SEXUAL ORIENTATION, GENDER IDENTITY, HANDICAP, FAMILIAL STATUS, OR NATIONAL ORIGIN.

Standard exceptions 1, 2, 3, and or 4, may be deleted from any policy upon compliance with all provisions of the applicable rules, upon payment of all additional premiums required by the applicable rules, upon receipt of the required documents and upon compliance with the company's underwriting standards for each such deletion. Standard exception 5 may be deleted from the policy if the named insured in the case of an owner's policy, or the vestee, in the case of a leasehold or loan policy, is a corporation, a partnership, or other artificial entity, or a person holding title as trustee. Except for the issuance of a U.S. policy form (NM form 7 or NM form 34), any policy to be issued pursuant to this commitment will be endorsed or modified in Schedule B by the company to waive its right to demand arbitration pursuant to the conditions and stipulations of the policy at no cost or charge to the insured. The endorsement or the language added to schedule B of the policy shall read: "In compliance with Subsection D of 13.14.18.10 NMAC, the company hereby waives its right to demand arbitration pursuant to the title insurance arbitration rules of the American Land Title Association. Nothing herein prohibits the arbitration of all arbitrable matters when agreed to by both the company and the insured."

The Policy will not insure against loss or damage resulting from the terms and provisions of any lease or easement identified in Schedule A, and will include the following Exceptions unless cleared to the satisfaction of the Company:

1. Right or claims of parties in possession not shown by the public records.
2. Easements or claims of easements, not shown by the public records.
3. Encroachments, overlaps, conflicts in boundary lines, shortages in area, or other matters which would be disclosed by an accurate survey and inspection of the premises.
4. Any lien, claim or right to a lien, for services, labor or material heretofore or hereafter furnished, imposed by law and not shown by the public records.
5. Community property, survivorship, or homestead rights, if any, of any spouse of the insured (or vestee in a leasehold or loan policy)
6. Water rights, claims or title to water.
7. Taxes for the year 2023, and thereafter.
8. Defects, liens, encumbrances, adverse claims or other matters, if any, created first appearing in the public records or attaching subsequent to the Effective Date hereof but prior to the date the

*This page is only a part of a 2016 ALTA® Commitment for Title Insurance. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I - Requirements; and Schedule B, Part II - Exceptions; and a countersignature by the Company or its issuing agent that may be in electronic form.*

**Copyright 2006-2016 American Land Title Association. All rights reserved.**

The use of this Form (or any derivative thereof) is restricted to ALTA licensees and ALTA members in good standing as of the date of use. All other uses are prohibited. Reprinted under license from the American Land Title Association.

File No.: 2151996

13.14.18.13 NM Form 6 Commitment for Title Insurance Schedules 8-1-16 Modified 7-1-18

Page 7 of 8





# 13.14.18.13 NM FORM 6 COMMITMENT FOR TITLE INSURANCE

## SCHEDULE B PART II

ISSUED BY  
STEWART TITLE GUARANTY COMPANY

proposed Insured acquires for value of record the estate or interest or mortgage thereon covered by the Commitment.

9. Minerals of whatsoever kind, subsurface and surface substances, including but not limited to coal, lignite, oil, gas, uranium, clay, rock, sand and gravel in, on, under and that may be produced from the Land, together with all rights, privileges, and immunities relating thereto, whether or not appearing in the Public Records or listed in Schedule B. The Company makes no representation as to the present ownership of any such interests. There may be leases, grants, exceptions or reservations of interests that are not listed.
10. Reservations contained in the Patent Deed from the United States of America.
11. Agreement, Public Service Board of the City of El Paso, Texas and Harry J. Stone, Jr., filed of record July 17, 1989, in Book 241, Pages 684-686, Records of Dona Ana County, New Mexico.
12. Concrete Irrigation Ditch inside property line as shown on Plat of Survey by Brock & Bustillos Inc., dated July 27, 2021.

*This page is only a part of a 2016 ALTA® Commitment for Title Insurance. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I - Requirements; and Schedule B, Part II - Exceptions; and a countersignature by the Company or its issuing agent that may be in electronic form.*

**Copyright 2006-2016 American Land Title Association. All rights reserved.**

The use of this Form (or any derivative thereof) is restricted to ALTA licensees and ALTA members in good standing as of the date of use. All other uses are prohibited. Reprinted under license from the American Land Title Association.

File No.: 2151996

13.14.18.13 NM Form 6 Commitment for Title Insurance Schedules 8-1-16 Modified 7-1-18

Page 8 of 8



## RESOLUTION

**A RESOLUTION OF THE EL PASO WATER UTILITIES PUBLIC SERVICE BOARD TO AWARD THE SALE OF APPROXIMATELY 16.2097 ACRES OF LAND, LEGALLY DESCRIBED AS PORTION OF SECTION 9, TOWNSHIP 27 SOUTH, RANGE 3 EAST, NEW MEXICO PRINCIPLE MERIDIAN, DOÑA ANA COUNTY, NEW MEXICO, TO TYSON AND MEGAN STRAIN, WHO SUBMITTED THE HIGHEST PURCHASE PRICE, AND AUTHORIZING THE PRESIDENT/CEO TO FORWARD THE RECOMMENDATION TO THE CITY AND SIGN ANY AND ALL DOCUMENTS NECESSARY TO COMPLETE THE SALE**

**WHEREAS**, the El Paso Water Utilities Public Service Board holds certain real properties comprising the water system in its land inventory (collectively the “System”); and,

**WHEREAS**, on December 9, 2020, the El Paso Water Utilities Public Service Board approved the sale of land that has been declared inexpedient to the System through a real estate broker, in accordance with Texas Local Government Code Ann.§253.014(a)-(e), as amended; and

**NOW, THEREFORE, BE IT RESOLVED BY THE EL PASO WATER UTILITIES PUBLIC SERVICE BOARD OF THE CITY OF EL PASO, TEXAS:**

Section 1. The recitations as set out in the preamble above are found to be true and correct and are hereby adopted by the El Paso Water Utilities Public Service Board and made a part of this Resolution for all purposes.

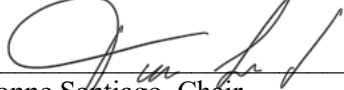
Section 2. That the El Paso Water Utilities Public Service Board recommends that the land described below be sold to Tyson and Melanie Strain, with the highest purchase offer for a total amount of \$360,000.00:

Approximately 16.2097 acres of land, legally described as Portion of Section 9, Township 27 South, Range 3 East, New Mexico Principle Meridian, Doña Ana County, New Mexico

Section 3. That the El Paso Water Utilities Public Service Board authorize the President/CEO to forward the resolution of the El Paso Water Utilities Public Service Board that the above-described land is to be sold in accordance with state law and sign any and all documents necessary to complete the sale of the property to Tyson and Melanie Strain.

**PASSED, ADOPTED and APPROVED** at a Regular Meeting of the El Paso Water Utilities Public Service Board of the City of El Paso, Texas, this 8th day of November 2023, at which meeting a quorum was present and which meeting was held in accordance with the provisions of V.T.C.A. Government Code, Sections 551.001, et. seq.

EL PASO WATER UTILITIES  
PUBLIC SERVICE BOARD

  
Ivonne Santiago, Chair

ATTEST:

  
Charlie Intebi, Secretary-Treasurer

APPROVED AS TO FORM:

  
Daniel Ortiz, General Counsel