

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

AGENDA DATE: September 27, 2022

PUBLIC HEARING DATE: October 11, 2022

CONTACT PERSON(S) NAME AND PHONE NUMBER: Philip F. Etiwe, (915) 212-1553
Armida R. Martinez, (915) 212-1605

DISTRICT(S) AFFECTED: District 2

STRATEGIC GOAL: #3 Promote the Visual Image of El Paso

SUBGOAL: 3.1 Provide business friendly permitting and inspection processes
3.2 Set one standard for infrastructure across the city

SUBJECT:

An Ordinance renewing and extending the Special Privilege License granted to the United States of America, acting by and through the Department of the Navy, Naval Facilities Engineering Command Southeast, as owner of the Naval Operations Support Center (NOSC) El Paso, to permit the continued use, maintenance and repair of a surface encroachment of curbing, guttering and security fence over a portion of city right-of-way along Truman Avenue and adjacent to the NOSC El Paso located at 4810 Pollard Street, El Paso, Texas; setting the license term for a term of one (1) year with six (6) additional one (1) year renewal options.

Subject Property: 4810 Pollard

Applicant: United States of America, Department of the Navy, PSPN22-00008

BACKGROUND / DISCUSSION:

The U.S. Navy requested the renewal of the Special Privilege License Agreement with the City of El Paso in support of the Navy Operational Support Center (NOSC) El Paso. The agreement will continue to permit the placement of a security fence encroaching two and a half (2.5') ft. in width and four hundred twenty (420') ft. in length onto public right-of-way along a portion of Truman Avenue, which has been in existence since 1989.

PRIOR COUNCIL ACTION:

September 15, 2020 - approval of Ordinance 019096 for the initial license.

AMOUNT AND SOURCE OF FUNDING:

N/A

HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED? YES NO

PRIMARY DEPARTMENT: Planning & Inspections, Planning Division

SECONDARY DEPARTMENT: N/A

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

DEPARTMENT HEAD:

Kevin Smith

for Philip Etiwe

ORDINANCE No. _____

AN ORDINANCE RENEWING AND EXTENDING THE SPECIAL PRIVILEGE LICENSE GRANTED TO THE UNITED STATES OF AMERICA, ACTING BY AND THROUGH THE DEPARTMENT OF THE NAVY, NAVAL FACILITIES ENGINEERING COMMAND SOUTHEAST, AS OWNER OF THE NAVAL OPERATIONS SUPPORT CENTER (NOSC) EL PASO, TO PERMIT THE CONTINUED USE, MAINTENANCE AND REPAIR OF A SURFACE ENCROACHMENT OF CURBING, GUTTERING AND SECURITY FENCE OVER A PORTION OF CITY RIGHT-OF-WAY ALONG TRUMAN AVENUE AND ADJACENT TO THE NOSC EL PASO LOCATED AT 4810 POLLARD STREET, EL PASO, TEXAS; SETTING THE LICENSE TERM FOR A TERM OF ONE (1) YEAR WITH SIX (6) ADDITIONAL ONE (1) YEAR RENEWAL OPTIONS.

WHEREAS, the El Paso City Council approved Ordinance No. 019096 on September 15, 2020, a copy of which is attached as Exhibit “A” which authorized The Department of the Navy, Naval Facilities Engineering Command Southeast use of a portion of right-of-way along Truman Avenue and legally described as Lots 1 through 22, Block 74, Morningside Heights, City of El Paso, El Paso County, Texas to permit the continued use, maintenance and repair of a surface encroachment of a security fence; and

WHEREAS, The Department of the Navy, Naval Facilities Engineering Command Southeast has requested to renew the special privilege license as per the terms in Ordinance No. 019096; and

WHEREAS, on September 28, 2021, El Paso City Council approved Ordinance No. 019238 extending the special privilege license for one year.

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

1. That the Department of the Navy, Naval Facilities Engineering Command Southeast is authorized to use a portion of right-of-way along Truman Avenue and legally described as Lots 1 through 22, Block 74, Morningside Heights, City of El Paso, El Paso County, Texas to permit the continued use, maintenance and repair of a surface encroachment of a fence for a period of one year.
2. That the Special Privilege shall be subject to all the terms and conditions as specified in Exhibit “A”.

(Signatures on the following page)

PASSED AND APPROVED this ____ day of _____, 2022

THE CITY OF EL PASO:

Oscar Leeser
Mayor

ATTEST:

Laura D. Prine
City Clerk

APPROVED AS TO FORM:



Russel T. Abeln
Assistant City Attorney

APPROVED AS TO CONTENT:

Kevin Smith for

Philip F. Etiwe, Director
Planning and Inspections Department

019096

ORDINANCE NO. _____

AN ORDINANCE GRANTING A SPECIAL PRIVILEGE LICENSE TO THE UNITED STATES OF AMERICA, ACTING BY AND THROUGH THE DEPARTMENT OF THE NAVY, NAVAL FACILITIES ENGINEERING COMMAND SOUTHEAST, AS OWNER OF THE NAVAL OPERATIONS SUPPORT CENTER (NOSC) EL PASO, TO PERMIT THE CONTINUED USE, MAINTENANCE AND REPAIR OF A SURFACE ENCROACHMENT OF CURBING, GUTTERING AND A SECURITY FENCE OVER A PORTION OF CITY RIGHT-OF-WAY ALONG TRUMAN AVENUE AND ADJACENT TO THE NOSC EL PASO LOCATED AT 4810 POLLARD STREET, EL PASO, TEXAS; SETTING THE LICENSE TERM FOR A TERM OF ONE (1) YEAR WITH EIGHT (8) ADDITIONAL ONE (1) YEAR RENEWAL OPTIONS.

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

SECTION 1. DESCRIPTION

The City of El Paso (hereinafter called "City") hereby grants a Special Privilege License (hereinafter called "License") to The United States of America, acting by and through the Department of the Navy, Naval Facilities Engineering Command Southeast (hereinafter referred to as the "Grantee"), to permit the continued use, maintenance and repair of a surface encroachment of a fence (hereinafter also referred to as "Permitted Use") encroaching two and ½ (2.5') ft. in width and four hundred twenty (420') ft. in length for a total of one thousand fifty (1,050) square feet area or approximately 0.024 acres of encroachment onto the public right-of-way over a portion of the City Right-Of-Way adjacent to the NOSC El Paso located at 4810 Pollard Street as more particularly described in *Exhibit "A"* and depicted on *Exhibit "B"*, both *Exhibit "A"* and *Exhibit "B"* are attached hereto and incorporated herein by reference (hereinafter referred to as "License Area").

SECTION 2. LICENSE AREA

The surface rights granted herein over a portion of right-of-way along Truman Avenue and legally described as Lots 1 through 22, Block 74, Morningside Heights, City of El Paso, El Paso County, Texas to permit the continued use, maintenance and repair of a surface encroachment of a fence, as more particularly shown on *Exhibit "B"*.

SECTION 3. USE OF PROPERTY

This License is granted solely for the encroachment onto City rights-of-way, which includes the requirement and responsibility for continued use, maintenance and repair of the fence, which serves as a security fence. Grantee agrees to maintain the License Area in proper working condition and in accordance with all applicable City specifications, which includes restoration to allow and not impede the City's use of the right of way for pedestrian and vehicular access.

Except for the waiver of fees as provided herein, this Special Privilege License shall not be construed to waive any City permit requirements. Grantee shall be responsible for all maintenance.

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Grantee, at no cost to the City, shall clean up all litter and debris within the License Area, leaving City rights-of-way in a clean and orderly condition at all times.

This License shall not permit or be construed to permit any other private use of the City right-of-way that impairs its function as a City right-of-way. Except for maintenance of the security fence as provided herein, Grantee shall not construct any additional improvements, or make any additions or alterations on, above, or below the City right-of-way, without prior written consent of the El Paso City Manager or designee.

SECTION 4. REGULATION OF CONSTRUCTION

The work done by Grantee in repairing, reconstructing, or maintaining the security fence shall be subject to and governed by all the applicable laws, rules and regulation of the City, State, and Federal laws that are applicable to the maintenance and repair of the security fence. Work done in connection with the repair and maintenance of the security fence is subject to the continuing police power of the City.

In the event that Grantee desires to reconstruct, repair, maintain, or replace the security fence built hereunder, Grantee shall obtain all applicable permits required by the City. Where proposed, any excavation or trenching and other construction in the License Area shall be so carried out as to interfere as little as practical with the surface use of the License Area in accordance with any lawful and reasonable direction given by or under the authority of the governing body of the City under the police and regulatory powers necessary to provide for public convenience.

Grantee covenants and agrees that Grantee, subject to available appropriations, shall repair all water lines, storm and sanitary sewer lines, service lines and water meters owned by the City that Grantee, Grantee's employees, contractors, agents or assigns damage so that such repair of the water lines, storm and sanitary sewer lines and water meters shall comply with any applicable City codes.

The City shall have the power at any time to order and require Grantee to remove and abate any portion of the License Area that is dangerous to life or property.

SECTION 5. TERM

License Term for security fence: In accordance with City Code, Subsection 15.08.120(E)(2)(p), this license authorizing the encroachment of a security fence, as more particularly depicted on *Exhibit "B"* shall be for a term of one (1) year with eight (8) additional one (1) year renewal options, at the option of the Government, from the Effective Date hereof, unless terminated earlier as provided herein.

As noted above, Grantee shall have the right to extend this Special Privilege for **EIGHT** (8) additional **ONE** (1) year terms upon written notice to the City. Adequate federal appropriations for payment of annual rent must be available for the annual lease renewals. City understands Grantee pays rent in arrears. If Grantee wishes the City to extend this License, Grantee shall submit a request in writing to the City no later than three (3) months prior to the expiration date of this License. Should Grantee fail to submit such request for the extension of this License to the City as herein required, the License shall expire upon the expiration date.

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SECTION 6. WORK DONE BY OTHERS

Throughout the term of this License, the City expressly reserves the right to install, repair, or reconstruct the City right-of-way used or occupied by Grantee, any streets or alleys and all ancillary public uses, usual and customary in connection with streets and alleys, expressly including but not limited to, drainage facilities and structures.

The City reserves the right, subject to further conditions described in this paragraph, to lay and permit to be laid, utility lines including, but not limited to, storm and sanitary sewer, gas, water, and other pipelines or cables, and to do and permit to be done, any underground and overhead installation or improvement that may be deemed necessary or proper by the governing body of the City in, across, along, over or under the License Area occupied by Grantee, and to change any curb or sidewalk or the street grade of any street. The City shall notify Grantee of work to be performed as herein described.

SECTION 7. RESERVATION OF SURFACE, SUBSURFACE, AND AIRSPACE RIGHTS

Except as provided herein, the City reserves the right to use the surface or subsurface or airspace within the License Area for any public purposes allowed by law and deemed necessary by the City and to do or permit to be done any work in connection therewith which may be deemed necessary or proper by the City on, across, along, under or over said License Area occupied by Grantee provided such use does not interfere with Grantee's use of the License Area.

SECTION 8. CONSIDERATION

As consideration for this special Privilege License, the Grantee shall pay, in arrears, to the City ONE HUNDRED NINETEEN AND 70/100 DOLLARS (\$119.70) per year or an appropriate pro rata amount if this special privilege license is terminated prior to conclusion of a full year. The annual fee shall remain the same for a period of one year from the date of execution by the El Paso City Council and shall be subject to change after each one-year period the License remains in effect. The El Paso City Council retains the right to increase or decrease the annual fee specified in this License. The City shall notify the Grantee of any proposed changes in fees as prescribed in Section 15 (Notice) of this License.

City understands Grantee pays rent in arrears. Further, City understands Grantee pays non-federal entities via <https://www.sam.gov> and therefore City agrees to maintain their CAGE (commercial and government entity) Code and DUNS (data universal numbering system) number.

SECTION 9. INSURANCE

Prior to commencement of any future construction, repairs, or maintenance operations during the term of this License, Grantee's Contractors or Agents shall provide the City with a certificate of insurance and shall maintain such insurance in effect during the time of construction. The City shall be named as an additional insured on all of the Contractors or Agents insurance policies that are required by this License. Failure to maintain insurance after receipt of notice of default and thirty (30) days to cure shall be a material breach of this License and a basis for termination of this License by the City.

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Grantee's Contractors or Agents shall maintain liability insurance for personal injuries and death growing out of any one accident or other cause in a minimum amount of One Million and No/100 Dollars (\$1,000,000.00) per person, and Two Million and No/100 Dollars (\$2,000,000.00) for each single occurrence, and, in addition, will provide property damage liability insurance in a minimum sum of One Million and No/100Dollars (\$1,000,000.00) for property damage growing out of any one accident or other cause. These amounts are not a limitation upon the Grantee's Contractors or Agents agreement to indemnify and hold the City harmless.

Grantee's Contractors or Agents shall procure said insurance with a solvent insurance company authorized to do business in Texas. Such policy or certificate shall provide that the insurance cannot be canceled, modified or the amount of coverage changed without thirty (30) days prior written notice to the Financial Services Department, or ten (10) days prior written notice to the Financial Services Department for cancellation based on non-payment of insurance premiums. Grantee shall file a copy of the policy of insurance with Financial Services Department and the Planning and Inspections Department.

SECTION 10. INDEMNITY The City acknowledges that the Grantee cannot agree to indemnification or damages provisions pursuant to its fiscal law policies. However, the Grantee will agree to include the following provisions in its agreements with contractors performing work on the Property under this Special Privilege:

The Contractor, its Agent or its insurer will INDEMNIFY, DEFEND AND HOLD the City, its officers, agents and employees, HARMLESS FOR AND AGAINST ANY AND ALL CLAIMS, CAUSES OF ACTION, LIABILITY, DAMAGES OR EXPENSE, (INCLUDING BUT NOT LIMITED TO ATTORNEY FEES AND COSTS) FOR ANY DAMAGE TO OR LOSS OF ANY PROPERTY, OR ANY ILLNESS, INJURY, PHYSICAL OR MENTAL IMPAIRMENT, LOSS OF SERVICES, OR DEATH TO ANY PERSON ARISING OUT OF OR RELATED TO THE THIRD PARTY ACTIVITIES, even where such damage, injury, loss, illness, physical or mental impairment, loss of service, or death results from or involves NEGLIGENCE, or allegations of negligence on the part OF THE CITY, its officers, agents, or employees. Without modifying the conditions of preserving, asserting or enforcing any legal liability against the City as required by the City Charter or any law, the City will promptly forward to Contractor or Agent every demand, notice, summons or other process received by the City in any claim or legal proceeding contemplated herein. The Contractor or its Agent will 1) investigate or cause the investigation of accidents or occurrences involving such injuries or damages; 2) negotiate or cause to be negotiated the claim as the Company may deem expedient; and 3) defend or cause to be defended on behalf of the City all suits for damages even if groundless, false or fraudulent, brought because of such injuries or damages. The Contractor or its Agent will pay all judgments finally establishing liability of the City in actions defended by the Contractor or its Agent pursuant to this section along with all attorneys' fees and costs incurred by the City including interest accruing to the date of payment by Contractor or its Agent, and premiums on any appeal bonds. The City, at its election, will have the right to participate in any such negotiations or legal proceedings to the extent of its interest. The City will not be responsible for any loss of or damage to the Contractor or its Agent's property from any cause.

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SECTION 11. RIGHTS IN THE EVENT OF ABANDONMENT

As an express condition of this License, and not as a mere covenant, in the event Grantee abandons the security fence or a portion thereof or ceases to use the security fence for the purposes enumerated herein for any period of six (6) months or longer, other than the time elapsing between the Effective Date of this license and the completion of construction of the security fence, this License shall automatically terminate, free and clear of any right, title, or interest in Grantee without the necessity of any notice to Grantee or any re-entry by the City.

SECTION 12. CANCELLATION

The City shall have the option to terminate this License at any time upon giving the Grantee written notice sixty (60) days in advance of such termination, at no cost to the City and may take possession of the City right-of-way. All rights of the Grantee for the City right-of-way shall then be terminated.

Grantee shall have the option to terminate this License at any time upon giving the City written notice thirty (30) days in advance of such termination. In addition, the City shall have the option to cancel and terminate this License for failure of Grantee to comply with any material provision or requirement contained in this agreement after thirty (30) days written notice to Grantee. However, if said breach or failure to comply cannot be reasonably cured within thirty (30) days, if Grantee shall proceed promptly to cure the same with due diligence, the time for curing such failure to comply shall be extended for such period of time as may be deemed reasonably necessary by the City to complete such curing unless such breach involves public safety.

Upon termination of this License, prior to the expiration of the original term for any reason, Grantee, subject to available appropriations, shall remove Grantee's security fence located in the License Area at no cost to the City. Grantee shall restore the License Area to the reasonable satisfaction of the City Engineer and in accordance with City specifications, at Grantee's own cost and expense, subject to available appropriations. Any such restoration shall be subject to the reasonable approval of the City. If the Grantee fails to restore the License Area as required herein, the City may at its option restore the License Area and charge such costs to Grantee who shall be responsible for payment of such repair and restoration costs, subject to available appropriations

SECTION 13. RECORDS

The El Paso City Council and the El Paso City Manager or designee shall be kept fully informed by Grantee as to matters pertaining in any way to Grantee's exercise of Grantee's rights under this License, including the use, replacement, maintenance, and repair of the security fence within the License Area. Obtaining all applicable City permits shall be deemed sufficient to keep such parties informed. Grantee shall keep complete and accurate maps, construction drawings, and specifications describing the location of the structure(s) within the City right-of-way. The City shall have the right, at reasonable times to inspect such maps, construction drawings, and specifications.

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SECTION 14. NOTICE

Any notice or communication required in the administration of this License shall be sent in writing by prepaid certified mail, return receipt requested, to the following addresses:

CITY: City of El Paso
Attn: City Manager
300 North Campbell Street
El Paso, Texas 79901

with copy to: City of El Paso
ATTN: Planning and Inspections Department
811 Texas Avenue
El Paso, Texas 79901

with copy to: City of El Paso
ATTN: Financial Services Department –
Financial Accounting & Reporting
300 North Campbell Street
El Paso, Texas 79901

GRANTEE: United States of America
Department of the Navy
Naval Facilities Engineering Command
Southeast
Attn: Real Estate Consulting Officer AM1
P.O. Box 30
Jacksonville, FL 32212-0030

or to such other addresses as Grantee may designate from time to time by written notice as required in this paragraph.

SECTION 15. ASSIGNMENT

The rights granted by this License inure to the benefit of the Grantee, and any parent, subsidiary, or successor entity now or hereafter existing. The rights shall not be assignable without the express advanced written consent of the El Paso City Manager.

SECTION 16. LEASING OR DEDICATION OF FACILITIES

Grantee, without the advanced written consent of the El Paso City Manager or designee, shall not lease the License Area to any non-grantee person or entity.

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SECTION 17. ADMINISTRATION OF LICENSE

The El Paso City Manager or designee is the principal City official responsible for the administration of this License. Grantee recognizes that questions regarding the interpretation or application of this License shall be referred to the El Paso City Manager or designee.

SECTION 18. NO PROPERTY RIGHTS

Nothing herein shall grant any real property interest to the Grantee nor give rise to any vested right in the Grantee, Grantee's assigns or successors in interest, none of whom shall have a cause of action for damages upon revocation or termination of this License in accordance with the terms herein.

SECTION 19.

Intentionally Deleted.

SECTION 20. RIGHT OF ENTRY AND INSPECTION

The City's authorized representative shall have the right to enter upon the licensed area at all reasonable times for the purpose of inspecting the same and determining compliance with the terms of this License.

SECTION 21. LAWS AND ORDINANCES

Grantee shall comply with all State and Federal laws applicable to Grantee's construction, repair, renovation, alteration or use of the License Area.

ANTI-DEFICIENCY ACT; NAVY'S OBLIGATIONS.

Notwithstanding any provision to the contrary, all of Grantee's activities under or pursuant to this License are subject to the availability of appropriated funds, and no provisions shall be interpreted to require obligation or provision of funds in violation of the Anti-Deficiency Act, 31 U.S.C. § 1341. Additionally, nothing contained in this License shall be considered to imply that the Congress of the United States of America will, at any later date, appropriate sufficient funds to meet the Navy's obligations under this License or any deficiencies hereunder.

SECTION 22. ENTIRE AGREEMENT

This document contains all of the agreements between the parties and may not be modified, except by an agreement in writing signed by both parties.

SECTION 23. SEVERABILITY

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

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of this license.

SECTION 24. LAWS GOVERNING/VENUE

This license shall be governed and interpreted according to the laws of the State of Texas as applied in Federal District Court and venue shall be in Federal District Court.

SECTION 25. RESTRICTIONS AND RESERVATIONS

This License is subject to all previously recorded rights-of-way, easements, dedications, restrictions, reservations and other encumbrances of record and running with the land.

SECTION 26. EFFECTIVE DATE

The Effective Date of this License shall be the date last entered below. This License shall not take effect unless Grantee files Grantee's written acceptance with the City prior to the enactment of this License by the El Paso City Council.

ADOPTED this 15th day of SEPT., 2020

WITNESS THE FOLLOWING SIGNATURES AND SEALS



CITY OF EL PASO:

Dee Margo
Dee Margo
Mayor

ATTEST:

Laura D. Prine
Laura D. Prine
City Clerk

APPROVED AS TO FORM:

Russell T. Abeln
Russell T. Abeln
Assistant City Attorney

APPROVED AS TO CONTENT:

Philip F. Etiwe
Philip F. Etiwe, Director
Planning and Inspections Department

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ACCEPTANCE

The above instrument, with all conditions thereof, is hereby accepted this 25th day of August, 2020.

GRANTEE:

United States of America,
acting by and through the Department of the Navy
SALOMON.FERDINAND Digitally signed by
SALOMON.FERDINAND.LEWIS.III.10487818
.LEWIS.III.1048781841 41
Date: 2020.08.25 07:41:57 -0400

FERDINAND L. SALOMON
Real Estate Contracting Officer
Naval Facilities Engineering Command,
Southeast

Form 2276 LOA from Document Number - N0969720RC103TT
AA 1701806 52FR 232 00520 056521 2D FPP1NG 69720RC103TT 1,000.00

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EXHIBIT A



ROMAN BUSTILLOS, P.E.
President
RANDY P. BROCK, P.E.
Executive Vice President
SERGIO J. ADAME, P.E.
Vice President - Engineering
OSCAR V. PEREZ
Vice President - Operations
ISAAC CAMACHO, R.P.L.S.
Survey Manager

N&MCRC
Fort Bliss
El Paso, Texas
14.15 Acres±

METES AND BOUNDS DESCRIPTION
"Navy & Marine Corps Reserve Center"

A 14.15 acre parcel being all of Blocks 74 & 76 and a portion of Blocks 25, 75, 79 & 80, Morningside Heights Addition, as conveyed to The United States Government, and a portion of Lincoln Avenue, Johnson Avenue and Garfield Street, El Paso County, Texas, and being more particularly described by metes and bounds as follows.

COMMENCING for reference at a found bolt located at the centerline intersection of Pollard Street (60.00 feet wide) and Truman Avenue (60.00 feet wide); ***WHENCE***, a found Texas Department of Transportation Right-of-way brass cap located on the westerly right-of-way line of U.S. Highway No. 54/Patriot Freeway (width varies) bears, South 02°24'35" West, a distance of 1,730.26 feet (1,730.21 feet measured); ***THENCE***, leaving the centerline of Pollard Street and following the centerline of Truman Avenue, South 86°35'48" East, a distance of 30.00 feet; ***THENCE***, leaving the centerline of Truman Avenue, North 03°24'12" East, a distance of 30.00 feet to a 1/2" rebar with cap stamped "TX 5337" set at the intersection of the northerly right-of-way line of Truman Avenue and the easterly right-of-way line of Pollard Street, for the southwest corner of and the ***POINT OF BEGINNING*** of the parcel herein described; Having Texas Central Zone State Plane Coordinates (NAD83): *N: 10677479.5082* and *E: 399802.4710*; ***WHENCE***, found N.G.S. Brass Cap Monument stamped "N-13-EPGS-1980", having Texas Central Zone State Plane Coordinates (NAD83): *N: 10680191.9530* and *E: 395838.3950*, located in the northwest angle of the intersection of Fred Wilson Drive and Alabama Street, bears North 55°37'04" West a distance of 4,803.25 feet;

THENCE, leaving the northerly right-of-way line of Truman Avenue and with the easterly right-of-way line of Pollard Street, North 03°24'12" East, a distance of 604.20 feet to a 1/2" rebar with cap stamped "TX 5337" set 2.20 feet north of the centerline of Johnson Avenue (60.00 feet wide), for the west northwest corner of the parcel herein described;

THENCE, leaving the easterly right-of-way line of Pollard Street and with a line 2.20 feet north of and parallel to the centerline of Johnson Avenue, South 86°35'48" East, a distance of 350.94 feet to a 1/2" rebar with cap stamped "TX 5337" set for an angle point;

THENCE, North 03°24'12" East, a distance of 80.14 feet to a 1/2" rebar with cap stamped "TX 5337" set for an angle point;

EXHIBIT A

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THENCE, South 86°35'48" East, a distance of 228.76 feet to a 1/2" rebar with cap stamped "TX 5337" set for an angle point;

THENCE, North 03°24'12" East, a distance of 202.23 feet to a 1/2" rebar with cap stamped "TX 5337" set for the north northwest corner of the parcel herein described

THENCE, South 88°04'42" East, a distance of 415.57 feet to a 1/2" rebar with cap stamped "TX 5337" set for the north northeast corner of the parcel herein described;

THENCE, South 07°24'41" East, a distance of 78.15 feet to a 1/2" rebar with cap stamped "TX 5337" set for an angle point;

THENCE, South 88°04'42" East, a distance of 50.65 feet to a 1/2" rebar with cap stamped "TX 5337" set on the westerly right-of-way line of U.S. Highway No. 54, for the northeast corner of the parcel herein described; **WHENCE**, a found Texas Department of Transportation Right-of-way Brass Cap located at the intersection of the westerly right-of-way line of U.S. Highway No. 54 and the southerly right-of-way line of Hayes Avenue (46.87 feet wide) bears, North 30°23'27" East (North 30°25'47" East ~ measured) a distance of 123.01 feet (122.18 feet measured);

THENCE, following the westerly right-of-way line of U.S. Highway No. 54, South 30°23'27" West, a distance of 447.41 feet to a 1/2" rebar with cap stamped "TX 5337" set for an angle point;

THENCE, continuing with the westerly right-of-way line of U.S. Highway No. 54, South 34°23'02" West, a distance of 260.00 feet to a 1/2" rebar with cap stamped "TX 5337" set for an angle point;

THENCE, continuing with the westerly right-of-way line of U.S. Highway No. 54, South 27°12'29" West, a distance of 218.88 feet to a 1/2" rebar with cap stamped "TX 5337" set at the intersection of the projected northerly right-of-way line of Truman Avenue and the westerly right-of-way line of U.S. Highway No. 54, for the southeast corner of the parcel herein described; **WHENCE**, a found 1" Iron at an angle point in the westerly right-of-way line of U.S. Highway No. 54, bears South 27°12'29" West (South 26°56'02" West ~ measured), a distance of 173.26 feet (173.19 feet ~ measured);

THENCE, leaving the westerly right-of-way line of U.S. Highway No. 54 and with the projected northerly right-of-way line of Truman Avenue and continuing with the northerly right-of-way line of Truman Avenue, North 86°35'48" West, a distance of 635.21 feet to the **TRUE POINT OF BEGINNING**.

Said Parcel contains 14.15 acres (616,345 square feet) more or less.

All bearings contained hereon are grid based on the Texas Central State Plane.

EXHIBIT A

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All coordinates contained hereon were obtained by G.P.S. observation and are Texas Central Zone State Plane (NAD83) based on found N.G.S. Brass Cap Monument stamped "N-13-EPGS-1980" as mentioned above.

Isaac Camacho
Isaac Camacho
TX R.P.L.S. No. 5337
Date: May 19, 2006
S5907-06



EXHIBIT B

BOUNDARY SURVEY

DRAWN BY: E.R. CHECKED BY: I.C. DATE: 05/10/06 SCALE: 1"=200'

ALL OF BLOCKS 74 & 76 AND A PORTION BLOCKS 23, 75, 79 & 80, MORNINGSID HEIGHTS ADDITION AND A PORTION OF LINCOLN AVENUE, JOHNSON AVENUE & GARFIELD STREET, CITY OF EL PASO, EL PASO COUNTY, TEXAS.

N&MCRC

BROCK & BUSTILLOS INC.
CONSULTING CIVIL ENGINEERS
LAND SURVEYORS

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FORT BLISS MILITARY BASE
CITY OF EL PASO
EL PASO COUNTY, TEXAS



NOTES (CONTINUED)
7. SUBJECT PROPERTY IS ZONED 'M-1' (LIGHT MANUFACTURING DISTRICT) AS DESIGNATED ON CITY OF EL PASO ZONING MAP NO. 24, DATED OCTOBER 17, 1997.
SETBACKS FOR ZONE 'M-1':
FRONT: 15'
REAR: 10'
SIDE: 10'
SIDE STREET: 10'

DESCRIPTION	NORTHING	EASTING
MON	1088191.340	35453.390
POS	1087249.500	35802.470
POS	1087743.340	35975.740

- NOTES
1. BASIS OF BEARING (SOUTH 02°24'35" WEST) IS FROM A FOUND BOLT LOCATED AT THE CENTERLINE INTERSECTION OF POLLARD STREET AND TRUMAN AVENUE TO A FOUND TEXAS DEPARTMENT OF TRANSPORTATION RIGHT-OF-WAY BRASS CAP LOCATED AT THE INTERSECTION OF THE WESTERLY RIGHT-OF-WAY LINE OF U.S. HIGHWAY NO. 54/PATRIOT FREEWAY AND THE EAST RIGHT-OF-WAY LINE OF POLLARD STREET. (AS SHOWN HEREON)
 2. ALL COORDINATES SHOWN HEREON WERE OBTAINED BY G.P.S. OBSERVATION AND ARE TEXAS CENTRAL ZONE STATE PLANE COORDINATES (NAD83) BASED ON A FOUND N.G.S. BRASS CAP MONUMENT STAMPED "N-13-EP08-1980" LOCATED IN THE NORTHWEST ANGLE OF THE INTERSECTION OF FRED WILSON DRIVE AND ALABAMA STREET, AND BEARS NORTH 68°34'48" WEST A DISTANCE OF 5435.27' FROM THE POINT OF BEGINNING OF THE PARCEL HEREON DESCRIBED.
 3. SUBJECT PROPERTY IS LOCATED IN ZONE 'D' (AREAS OF UNDETERMINED BUT POSSIBLE FLOOD HAZARDS) AS DETAILED ON CITY OF EL PASO FLOOD INSURANCE RATE MAP PANEL NO. 480214 D0288, DATED OCTOBER 15, 1982.
 4. A 1/2" REBAR WITH CAP STAMPED "TX 5337" WAS SET AT ALL BOUNDARY CORNERS UNLESS OTHERWISE NOTED.
 5. SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE COMMITMENT. EASEMENTS MAY EXIST WHERE NONE ARE SHOWN.
 6. A METES & BOUNDS OF THE SAME DATE ACCOMPANIES THIS SURVEY.

CERTIFICATION
I HEREBY CERTIFY THAT THIS BOUNDARY SURVEY IS BASED ON AN ACTUAL FIELD SURVEY PERFORMED ON THE GROUND BY ME AND THAT THE INFORMATION CONTAINED HEREON IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

Isaac Camacho 05/10/06
ISAAC CAMACHO, R.P.L.S. TX. NO. 5337

