

CITY CLERK DEPT.

**CITY OF EL PASO, TEXAS**  
**AGENDA ITEM DEPARTMENT HEAD'S SUMMARY FORM -4 PM 1:36**

**DEPARTMENT:** Development Services Department  
**AGENDA DATE:** CCA 02/12/08 Consent  
**CONTACT PERSON/PHONE:** Michelle Padilla, Planner – 541-4903  
**DISTRICT(S) AFFECTED:** 2

**SUBJECT:**

Discussion and action on a Resolution that the City Manager accept on behalf of the City a Dedicatory Certificate from the El Paso Electric Company granting to the City an easement and dedication of real property for use of public right-of-way located within Pershing Place Subdivision, and more particularly described as *Belmont Street, in a portion of Lot 1, Block 26, Mesa Heights Addition, City of El Paso, El Paso County, Texas. (District 2)*

**BACKGROUND / DISCUSSION:**

See attached report.

**PRIOR COUNCIL ACTION:**

N/A

**AMOUNT AND SOURCE OF FUNDING:**

N/A

**BOARD / COMMISSION ACTION:**

Development Coordinating Committee (DCC) – Approval Recommendation

\*\*\*\*\*REQUIRED AUTHORIZATION\*\*\*\*\*

**LEGAL:** (if required) N/A

**FINANCE:** (if required) N/A

**DEPARTMENT HEAD:** Kelly Carpenter, AICP

**APPROVED FOR AGENDA:**

**CITY MANAGER:** \_\_\_\_\_

**DATE:** \_\_\_\_\_

**RESOLUTION**

CITY CLERK DEPT.

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

That the City Manager be authorized to sign and accept on behalf of the City a Street Dedicatory Certificate from the El Paso Electric Company granting to the City an easement and dedication of real property for use of public right-of-way located within Pershing Place Subdivision, and more particularly described as *Belmont Street, in a portion of Lot 1, Block 26, Mesa Heights Addition, City of El Paso, El Paso County, Texas.*

**PASSED AND APPROVED** this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

**THE CITY OF EL PASO**

\_\_\_\_\_  
John F. Cook  
Mayor

**ATTEST:**

\_\_\_\_\_  
Richarda Duffy Momsen  
City Clerk

**APPROVED AS TO FORM:**

**APPROVED AS TO CONTENT:**

\_\_\_\_\_  
Lupe Cuellar  
Assistant City Attorney

\_\_\_\_\_  
Kareem Dallo  
Development Services Department

DEDICATORY CERTIFICATE

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08 FEB -4 PM 1:36

State of Texas        }  
                              }  
County of El Paso    }

**Description of Property**

- 1. El Paso Electric Company (EPE) is the owner in fee simple of real property in the Pershing Place Subdivision, located in El Paso County, as shown on Exhibit "A", plat for Pershing Place Subdivision, which is attached and incorporated herein by reference for all purposes. This EPE property is more particularly described as Belmont Street, in a portion of Lot 1, Block 26, Mesa Heights Addition, El Paso County, Texas (Property).

**Offer of Dedication**

- 2. EPE offers to dedicate, subject to the provisions of this Dedicatory Certificate, the Property to the City of El Paso (City) and the public in general for use as a street, to be as the continuation of Belmont Street, in order to provide access to the Pershing Place Subdivision.

The City as well as Place Acquisition LLC, developer of Pershing Place Subdivision (Developer), accept EPE's offer, as evidenced by their signatures by below.

**Limitations on Use**

- 3. EPE places the following limitations and conditions on the use of the Property:
  - a. Within ninety (90) days of the completion of the installation of the utilities, Developer shall construct all of the sidewalk to run contiguous and parallel to Belmont Street within the Property.
  - b. Development or improvement in the Property and adjacent areas shall comply with all applicable ordinance and other laws, and shall not pond or alter the flow of water on, in, or around the Property and in EPE's adjacent land.
  - c. The City and Developer agree EPE shall not be charged or assessed for any paving, fencing, sidewalks, guttering and/or curbing or any other improvement which may hereafter at any time be required by the City and installed upon the Property and adjacent to EPE's remaining land.
  - d. The City agrees it will be responsible for upkeep and maintenance of the Property, to include the street, parkways, and sidewalks.
  - e. If upon the City's request, EPE agrees to adjust or relocate its electric facilities, the City will be responsible for the adjustment or relocation costs, and such adjustment or relocation will be carried out during EPE's off-peak season.
  - f. Developer agrees the lots abutting EPE's land adjacent to the Property will carry language as part of the covenants that no access, trash, trespass, or use will be allowed onto or on EPE's land.

- g. THE CITY AGREES TO RELEASE EPE FROM ANY CLAIM BY THE CITY AGAINST EPE ARISING FROM THE CITY'S USE OF THE PROPERTY OR FROM THE EXISTENCE OF ANY STRUCTURES PLACED ON THE PROPERTY BY THE CITY; PROVIDED HOWEVER, THIS RELEASE WILL NOT EXTEND TO CLAIMS ATTRIBUTABLE TO EPE'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.

**Reservation in EPE**

4. EPE conveys, by this dedication, only easements in the Property and for the stated public use. Fee simple interest and all other interest not inconsistent with the stated public purpose are reserved in EPE.

**Obligations of EPE**

5. EPE shall not be bound by this dedication to construct, install, or maintain improvements to the Property. EPE makes no representation, promise, or guarantee that such construction, installation, or maintenance will be performed.

**Disclaimer and Waiver**

6. CITY AND PROPERTY OWNERS AGREE AND ACKNOWLEDGE THAT EPE HAS NOT MADE ANY WARRANTY, EXPRESS, IMPLIED, OR AT COMMON LAW, BY STATUTE OR OTHERWISE, RELATING TO THE PROPERTY. EPE NEGATES AND DISCLAIMS, AND CITY AND DEVELOPER WAIVE, ANY WARRANTY OF (1) MERCHANTABILITY, (2) FITNESS FOR A PARTICULAR PURPOSE, OR (3) HABITABILITY AS TO THE PROPERTY. IT IS THE INTENTION OF THE PARTIES THAT THE PROPERTY BE PROVIDED BY EPE AND USED BY THE CITY AND DEVELOPER ON AN AS IS BASIS.

**Reservation of Right of Termination**

7. At the option of EPE, the easement herein dedicated shall end and revert to EPE in the event the Property ceases to be used for the purpose stated, or the stated limitations on use are breached and not cured following reasonable notice. EPE will provide ninety (90) days prior, written notice of termination.

Executed this 3<sup>rd</sup> day of January, 2008.

EL PASO ELECTRIC COMPANY

Kerry B. Lore  
Name: Kerry B. Lore  
Title: Vice President -Administration

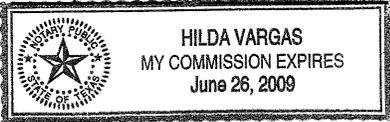
APPROVED AS TO FORM 1-3-08  
OFFICE OF THE GENERAL COUNSEL SEP

CITY CLERK DEPT.  
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**ACKNOWLEDGMENT**

STATE OF TEXAS       §  
                                  §  
COUNTY OF EL PASO   §

This instrument was acknowledged before me this 3<sup>rd</sup> day of January, 2008 by Kerry B. Lore, Vice President of El Paso Electric Company.



*Hilda Vargas*  
\_\_\_\_\_  
Notary Public, State of Texas

Accepted By:  
City of El Paso

\_\_\_\_\_  
Name: Joyce Wilson  
Title: City Manager

**ACKNOWLEDGMENT**

STATE OF TEXAS       §  
                                  §  
COUNTY OF EL PASO   §

This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, 2008, by Joyce Wilson, City Manager of the City of El Paso, on behalf of the City of El Paso.

\_\_\_\_\_  
Notary Public, State of Texas

APPROVED AS TO FORM:

*[Signature]*  
\_\_\_\_\_  
Lupe Cuellar  
Assistant City Attorney

APPROVED AS TO CONTENT:

*[Signature]*  
\_\_\_\_\_  
Kareem Dallo  
Development Services Department

CITY CLERK DEPT.

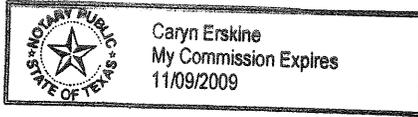
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Accepted By:

Place Acquisition, LLC

By: Place Management Group, LLC, its Manager

By: [Signature]  
Brent Little



STATE OF TEXAS       §  
                                  §  
COUNTY OF EL PASO   §

This instrument was acknowledged before me on the 23 day of January, 2008, by Brent Little, a manager of Place Management Group, LLC, the manager of Place Acquisition, LLC, as Developer of Pershing Place Subdivision.

[Signature]  
Notary Public, State of Texas

# PERSHING PLACE

ALL OF MOREHEAD SURVEY NO. 16 AND A REPLAT  
OF A PORTION OF HILL TERRACE ADDITION,  
CITY OF EL PASO,  
EL PASO COUNTY, TEXAS  
CONTAINING 9.577 ACRES



LEGEND  
 PROPOSED CITY MONUMENT



LINE	170251	BEARING
1	33.36	S87°07'00\"
2	13.36	S88°24'00\"
3	307.43	S43°31'00\"
4	135.00	S00°00'00\"
5	30.00	S88°24'00\"
6	30.00	S88°24'00\"
7	30.00	S88°24'00\"
8	30.00	S88°24'00\"
9	30.00	S88°24'00\"
10	30.00	S88°24'00\"
11	30.00	S88°24'00\"
12	30.00	S88°24'00\"
13	30.00	S88°24'00\"
14	30.00	S88°24'00\"
15	30.00	S88°24'00\"
16	30.00	S88°24'00\"
17	30.00	S88°24'00\"
18	30.00	S88°24'00\"
19	30.00	S88°24'00\"
20	30.00	S88°24'00\"
21	30.00	S88°24'00\"
22	30.00	S88°24'00\"
23	30.00	S88°24'00\"
24	30.00	S88°24'00\"
25	30.00	S88°24'00\"
26	30.00	S88°24'00\"
27	30.00	S88°24'00\"
28	30.00	S88°24'00\"
29	30.00	S88°24'00\"
30	30.00	S88°24'00\"
31	30.00	S88°24'00\"
32	30.00	S88°24'00\"
33	30.00	S88°24'00\"
34	30.00	S88°24'00\"
35	30.00	S88°24'00\"
36	30.00	S88°24'00\"
37	30.00	S88°24'00\"
38	30.00	S88°24'00\"
39	30.00	S88°24'00\"
40	30.00	S88°24'00\"

LINE	170251	BEARING	170251	BEARING	170251	
01	128.81	S88.00	88.78	S77°00'00\"	32.2674	
02	170.37	S78.00	88.00	S65°00'00\"	32.2674	
03	278.58	S65.00	148.83	S70.78	S27°00'00\"	43.2737
04	20.88	S00.00	19.88	S88.88	S82°00'00\"	4.2237
05	38.88	S00.00	18.88	S88.88	S82°00'00\"	4.2237
06	31.42	S00.00	30.00	S88.28	S42°00'00\"	8.2237
07	31.42	S00.00	30.00	S88.28	S82°00'00\"	8.2237
08	31.42	S00.00	30.00	S88.28	S82°00'00\"	8.2237
09	31.42	S00.00	30.00	S88.28	S82°00'00\"	8.2237
10	47.13	S00.00	22.80	S70.00	S82°00'00\"	7.2237
11	78.00	S00.00	38.74	S78.00	S82°00'00\"	4.2237
12	31.74	S00.00	48.73	S7.48	S72°00'00\"	1.2237
13	45.17	S00.00	35.17	S82.24	S88°00'00\"	3.2237
14	32.78	S00.00	18.18	S21.71	S82°00'00\"	1.2237
15	31.38	S00.00	30.78	S71.71	S82°00'00\"	1.2237
16	18.40	S88.88	8.33	S71.48	S42°00'00\"	1.2237
17	145.17	S78.00	71.54	S28.83	S82°00'00\"	1.2237
18	31.42	S00.00	30.00	S88.28	S82°00'00\"	8.2237
19	31.42	S00.00	30.00	S88.28	S82°00'00\"	8.2237
20	31.78	S00.00	18.84	S71.88	S82°00'00\"	8.2237
21	18.72	S00.00	8.45	S68.88	S72°00'00\"	1.2237
22	88.44	S00.00	35.14	S1.08	S82°00'00\"	1.2237
23	45.18	S00.00	23.04	S48.00	S82°00'00\"	1.2237
24	88.88	S00.00	81.93	S71.71	S82°00'00\"	1.2237
25	25.42	S00.00	20.00	S88.28	S82°00'00\"	8.2237
26	31.42	S00.00	30.00	S88.28	S82°00'00\"	8.2237
27	88.72	S78.00	34.88	S88.82	S82°00'00\"	1.2237
28	88.11	S88.00	47.88	S4.78	S72°00'00\"	1.2237
29	27.13	S78.00	18.57	S71.11	S82°00'00\"	1.2237
30	112.72	S78.00	58.72	S72.00	S82°00'00\"	1.2237
31	122.88	S84.00	87.88	S71.78	S82°00'00\"	1.2237
32	15.22	S84.00	15.78	S71.28	S82°00'00\"	1.2237
33	18.82	S84.00	28.88	S71.78	S82°00'00\"	1.2237
34	14.42	S84.00	17.28	S71.28	S82°00'00\"	1.2237
35	31.42	S00.00	30.00	S88.28	S82°00'00\"	8.2237
36	31.42	S00.00	30.00	S88.28	S82°00'00\"	8.2237
37	12.28	S00.00	8.28	S88.28	S82°00'00\"	1.2237
38	28.00	S00.00	14.00	S88.00	S82°00'00\"	1.2237
39	8.20	S74.00	6.18	S70.00	S82°00'00\"	1.2237
40	20.88	S74.00	14.88	S70.88	S82°00'00\"	1.2237
41	18.78	S88.00	20.88	S71.78	S82°00'00\"	1.2237

EXHIBIT A

SLI ENGINEERING, INC.  
 CIVIL ENGINEERS - LAND SURVEYORS  
 LAND PLANNERS - CONSTRUCTION MANAGEMENT  
 8002 WESTING DR. - EL PASO, TEXAS - 79915 - (915) 384-4401

PREPARATION DATE: 01-02-08