

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

**DEPARTMENT:** El Paso Water Utilities

**AGENDA DATE:** INTRODUCTION: June 24, 2008;  
PUBLIC HEARING: July 8, 2008

**CONTACT PERSON/PHONE:** Robert D. Andron, General Counsel   
El Paso Water Utilities, (915) 594-5607

**DISTRICT(S) AFFECTED:** District #4 - northeast

**SUBJECT:**

The introduction of an ordinance relating to the sale of land in Northeast El Paso. Attached is an individual ordinance and special warranty deed. There is a total of approximately 14.6275 acres of land making up this parcel.

**BACKGROUND / DISCUSSION:**

**Discussion of the what, why, where, when, and how to enable Council to have reasonably complete description of the contemplated action. This should include attachment of bid tabulation, or ordinance or resolution if appropriate. What are the benefits to the City of this action? What are the citizen concerns?**

Attached is the El Paso Water Utilities Public Service Board Resolution passed and approved May 28th, 2008, authorizing the sale to El Paso Electric Company; and requesting the City Council authorize the City Manager to sign a Special Warranty Deed to convey the parcel.

This land is located adjacent to the El Paso Electric Company Newman Power Plant near Stan Roberts Sr. Avenue and will provide an air and noise buffer zone around the plant. El Paso Water Utilities Public Service Board found the land to be inexpedient to the water system; and further found that the sale is in the public interest and should be sold to El Paso Electric Company in accordance with Section 272.001(5) of the Texas Local Government code, another entity having the power of eminent domain; and requested the El Paso City Council pass an ordinance conveying the real property to El Paso Electric Company. The sales price is \$146,275.00 in accordance with the market value established by an independent appraisal.

The legal description and amount of the highest bidder for the parcel is as follows:

Being a portion of Tract 1A, Section 11, Block 81, Township 1, Texas and Pacific Railway Company Surveys, City of El Paso, El Paso County, Texas, being approximately 14.6275 acres of land, to El Paso Electric Company, in the amount of \$146,275.00.

**PRIOR COUNCIL ACTION:**

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

In 2007, the City Council approved the sale of a parcel of land of 40 acres in Northeast El Paso.

**AMOUNT AND SOURCE OF FUNDING:**

**How will this item be funded? Has the item been budgeted? If so, identify funding source by account numbers and description of account. Does it require a budget transfer?**

Sale of land in accordance with the market value established by an independent appraisal and in accordance with Section 272.001(5) of the Texas Local Government code, another entity having the power of eminent domain. The City of El Paso will receive 5% of the net proceeds from the sale of the land pursuant to City of El Paso El Paso Water Utilities Water and Sewer Revenue Bond Covenants.

**BOARD / COMMISSION ACTION:**

Approved by the El Paso Water Utilities Public Service Board by Resolution May 28<sup>th</sup>, 2008.

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

**LEGAL:** (if required) \_\_\_\_\_

**FINANCE:** (if required) \_\_\_\_\_

**DEPARTMENT HEAD** \_\_\_\_\_  
(Example: if RCA is initiated by Purchasing, client department should sign also)

Information copy to appropriate Deputy City Manager

**APPROVED FOR AGENDA:**

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

Attachments

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

AN ORDINANCE OF THE CITY OF EL PASO, TEXAS, AUTHORIZING THE CITY MANAGER TO EXECUTE A SPECIAL WARRANTY DEED AND ANY OTHER NECESSARY DOCUMENTS AS REQUIRED FOR THE SALE AND CONVEYANCE AS RECOMMENDED BY THE EL PASO WATER UTILITIES FOR THE FOLLOWING DESCRIBED REAL PROPERTY TO EL PASO ELECTRIC COMPANY, SUCH LAND TOTALING APPROXIMATELY 14.6275 ACRES OF LAND OUT OF A PORTION OF TRACT 1A, SECTION 11, BLOCK 81, TOWNSHIP 1, TEXAS AND PACIFIC RAILWAY COMPANY SURVEYS, CITY OF EL PASO, EL PASO COUNTY, TEXAS LOCATED IN NORTHEAST EL PASO NEAR STAN ROBERTS SR. AVENUE.

WHEREAS, by Resolution dated May 28, 2008, the El Paso Water Utilities Public Service Board (PSB), which has jurisdiction over a certain parcel of land described as: being 14.6275 acres of land, more or less, and consisting of a portion of Tract 1A, Section 11, Block 81, Township 1, Texas and Pacific Railway Company Surveys, City of El Paso, El Paso County, Texas; found the land to be inexpedient to the water system; and further found that the sale is in the public interest and should be sold to El Paso Electric Company in accordance with Section 272.001(5) of the Texas Local Government Code, another entity having the power of eminent domain; and requested the El Paso City Council pass an ordinance conveying the real property to El Paso Electric Company and authorizing the sale and conveyance in accordance with the market value established by an independent appraisal; and

WHEREAS, this property is located adjacent to El Paso Electric Company Newman Power Plant and will provide an air and noise buffer zone around the plant located in northeast El Paso near Stan Roberts Sr. Avenue. The PSB determined that the sale is in the public interest and should be sold to El Paso Electric Company in accordance with Section 272.001(5) of the Texas Local Government code, another entity having the power of eminent domain and in accordance with the market value established by an independent appraisal;

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

That the City Manager is hereby authorized to execute a Special Warranty Deed and any other necessary documents as required for the sale and conveyance of the following described real property to El Paso Electric Company in accordance with Section 272.001(5) of the Texas Local Government Code, another entity having the power of eminent domain and in accordance with the market value established by an independent appraisal; the real property being more particularly described as totaling approximately 14.6275 acres of land being out of a portion of Tract 1A, Section 11, Block 81, Township 1, Texas and Pacific Railway Company Surveys, City of El Paso, El Paso County, Texas. Said property is located in northeast El Paso and lies entirely within the City Limits.

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:  
  
Robert D. Andron, General Counsel, PSB

APPROVED AS TO FORM:  
  
Theresa Cullen-Garney, Deputy City Attorney

CITY CLERK DEPT.  
08 JUN 18 AM 11:12

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

***SPECIAL WARRANTY DEED***

Date: \_\_\_\_\_, 2008

Grantor: The City of El Paso, Texas, a Texas municipal corporation  
On Behalf of El Paso Water Utilities Public Service Board

Grantor's Mailing Address (including county): Two Civic Center Plaza  
El Paso, Texas  
El Paso County, Texas 79901-1196

Grantee: El Paso Electric Company

Grantee's Mailing Address (including county): 100 N. Stanton Street  
El Paso, Texas 79901  
El Paso County, Texas 79901

Consideration: TEN AND NO/100 DOLLARS and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged and confessed.

Being approximately 14.6275 acres in a portion of Tract 1A, Section 11, Block 81, Township 1, Texas and Pacific Railway Company Surveys, City of El Paso, El Paso County, Texas and more particularly described in Exhibit "A", attached hereto and incorporated herein by this reference for all purposes.

Restrictions and Reservations from and Exceptions to Conveyance and Warranty:

1. This conveyance is subject to all easements, rights-of-way, and prescriptive rights whether of record or not, all presently recorded instruments, other than liens and conveyances, that affect the property.
2. Grantee, its successors or assigns shall not, for a period of at least 75 years, discard, place or store any radioactive material or other material which would contaminate or otherwise damage the groundwater supply or sources of the City of El Paso.
3. Development of the property shall be governed by the following restrictions as to turf:
  - a. Turf Areas, exclusive of non-irrigated or non-maintained landscape areas, shall not exceed the following percentages of the landscape area provided:
    - i. Commercial, office, and industrial: 33 $\frac{1}{3}$ %
    - ii. Apartments, duplexes and other multi-family dwellings, single-family detached or attached dwellings, and all

Special Warranty Deed: *Electric Co Land Sale 14.6275 acres, Portion of Tract 1A, Section 11, Block 81, TSP1, T&P Ry. Co Surveys, El Paso Co, Texas*

other residential dwellings, including mobile and modular homes: 50%

iii. All other developments excluding parks, golf courses, and cemeteries: 15%

b. Turf and/or sprinkler spray heads shall not be installed in the following locations:

- i. Along street curbs;
- ii. In areas whose width is less than 8 feet; and
- iii. In rights-of-way whose slopes are a ratio of 1:3 or greater from the horizontal.

4. Grantor hereby for itself, its successors and assigns forever, reserves all water in and under, and that may be produced from or attributable to the property. If the water estate is subject to existing production or an existing license, this reservation includes the production, the license and all benefits from it.

Grantor, for the consideration and subject to the restrictions, reservations from and exceptions to conveyance and warranty, grants, sells, and conveys to Grantee the property, together with all and singular the rights and appurtenances thereto in any wise belonging, to have and hold it to Grantee, Grantee's administrators, successors or assigns forever. Grantor binds Grantor and Grantor's successors to warrant and forever defend all and singular the property to Grantee and Grantee's administrators, successors and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof, except as to the reservations from and exceptions to conveyance and warranty, when the claim is by, through, or under Grantor but not otherwise.

THE CITY OF EL PASO

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Robert D. Andron, General Counsel, PSB

\_\_\_\_\_  
Joyce Wilson, City Manager

This Deed is hereby accepted by Grantee under the terms, covenants, obligations and conditions stated herein:

Grantee: El Paso Electric Company

By: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
(print name) (title)

(ACKNOWLEDGMENTS ON FOLLOWING PAGE)

**ACKNOWLEDGMENTS**

STATE OF TEXAS        }  
                                  }  
COUNTY OF EL PASO    }

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

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

STATE OF TEXAS        }  
                                  }  
COUNTY OF EL PASO    }

      This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, 2008, by \_\_\_\_\_, the \_\_\_\_\_ of El Paso Electric Company.

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

P:\20082009\June2008\CityCouncil\ElectricCoLandSale\ElectricCoLandSale14.6275acresNortheastNearStanRobertsSr. Ave.SWD.doc



**TO:** Joyce Wilson, City Manager  
City of El Paso, Texas

**FROM:** Robert D. Andron, General Counsel *Robert D. Andron*  
El Paso Water Utilities Public Service Board

**DATE:** June 5, 2008

**SUBJECT:** Request to place Item on City Council Agenda – Introduction: June 24, 2008  
Public Hearing: July 8, 2008

AN ORDINANCE OF THE CITY OF EL PASO, TEXAS, AUTHORIZING THE CITY MANAGER TO EXECUTE A SPECIAL WARRANTY DEED AND ANY OTHER NECESSARY DOCUMENTS AS REQUIRED FOR THE SALE AND CONVEYANCE AS RECOMMENDED BY THE EL PASO WATER UTILITIES FOR THE FOLLOWING DESCRIBED REAL PROPERTY TO EL PASO ELECTRIC COMPANY, SUCH LAND TOTALING APPROXIMATELY 14.6275 ACRES OF LAND OUT OF A PORTION OF TRACT 1A, SECTION 11, BLOCK 81, TOWNSHIP 1, TEXAS AND PACIFIC RAILWAY COMPANY SURVEYS, CITY OF EL PASO, EL PASO COUNTY, TEXAS, LOCATED IN NORTHEAST EL PASO NEAR STAN RAOBERTS SR. AVENUE. (District #4) [El Paso Water Utilities, Robert D. Andron, (915) 594-5607]

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**INTRODUCTION – City Council Agenda – June 24, 2008**  
**PUBLIC HEARING – City Council Agenda – July 8, 2008**

**Background**

El Paso Water Utilities Public Service Board, Trustee, has jurisdiction over certain parcels of land in northeast El Paso. The sale of parcel of land of approximately 14.6275 acres is located in Northeast El Paso adjacent to the El Paso Electric Company Newman Power Plant near Stan Roberts Sr. Avenue. Sale of this property to El Paso Electric Company will provide an air and noise buffer zone around the El Paso Electric Company Newman Power Plant. The sales price of \$146,275.00 is in accordance with the market value established by an independent appraisal.

By a Resolution dated May 28<sup>th</sup>, 2008, the El Paso Water Utilities Public Service Board, (PSB), which has jurisdiction over that certain parcel of land described as: being approximately 14.6275 acres of land, more or less and consisting of a portion of Tract 1A, Section 11, Block 81, Township 1, Texas and Pacific Railway Company Surveys, City of El Paso, El Paso County, Texas; found the land to be inexpedient to the water system; and, further found that the sale is in the public interest and should be sold to El Paso Electric Company in accordance with Section 272.001(5) of the Texas Local Government code, another entity having the power of eminent domain; and requested the El Paso City Council pass an ordinance conveying the real property to El Paso Electric Company.

City Manager Joyce Wilson  
Department Memo, June 5, 2008  
Request for Items for City Council Agenda  
**Introduction of Ordinance-June 24, 2008**  
14.7482 acres in Northeast El Paso  
Page 2

**ACTION REQUESTED**

That the City Manager be authorized to sign a Special Warranty Deed and any other necessary documents as required for the sale and conveyance as recommended by the El Paso Water Utilities, to El Paso Electric Company, of land described as approximately 14.6275 acres of land, more or less, being a portion Tract 1A, Section 11, Block 81, Township 1, Texas and Pacific Railway Company Surveys, City of El Paso, El Paso County, Texas. Said property is located in northeast El Paso adjacent to the El Paso Electric Company Newman Power Plant near Stan Roberts Sr. Avenue.

**REQUEST TO PLACE ITEM ON THE CITY COUNCIL AGENDA**

Attached is a copy of the Ordinance and a copy of the Special Warranty Deed for the parcel in this request. Upon passage of the Ordinance, it is requested that the City Clerk provide to this office a copy of the fully executed and numbered Ordinance for the parcel.

As to the deed, after City Council approval, execution by the City Manager and notarizing such signature, the City Clerk's Office will make a copy for her file, the City Clerk will route the original Special Warranty Deed to the El Paso Water Utilities Legal Section so that arrangements can be made for a closing on the parcel. After closing and once the Special Warranty Deed has been filed of record, this office will send a conformed copy to the City Clerk for the City's permanent records.

We are requesting that this item be placed on the agenda. Please advise this office of the placement of this item on the City Council Agenda and my Secretary will contact the City Clerk and make arrangements to have document packets hand-delivered to the City Clerk's Office and email backup documents as noted to those listed below. If there are any questions, please call me at 594-5607 or email [bandron@epwu.org](mailto:bandron@epwu.org).

I will plan to attend the Public Hearing for the Ordinance which is scheduled at this time for the City Council agenda July 8, 2008. Thank you for your kind attention to this matter.

Attachments

Cc: The Honorable Mayor John Cook (email)  
City Council Representatives (email)  
Pat Aauto, Deputy City Manager for Building & Planning Services (email)  
Charlie McNabb, City Attorney (email)  
Theresa Cullen-Garney, Deputy City Attorney (email)  
Richarda Duffy-Momsen, City Clerk (hard copies & email)  
Nicholas J. Costanzo, Vice President of Strategic, Financial & Management Services  
Marcela Navarrete, Chief Finance Officer, PSB  
Jim Shelton, Land Management, PSB

RESOLUTION

**A RESOLUTION AUTHORIZING THE SALE TO EL PASO ELECTRIC COMPANY, 14.6275 ACRES OF LAND, MORE OR LESS, PORTION OF TRACT 1A, SECTION 11, BLOCK 81, TOWNSHIP 1, TEXAS & PACIFIC RAILWAY COMPANY SURVEYS, EL PASO COUNTY, TEXAS, SAID REAL PROPERTY BEING UNDER THE JURISDICTION OF THE PUBLIC SERVICE BOARD; REQUESTING THE CITY COUNCIL AUTHORIZE THE CITY MANAGER TO EXECUTE A SPECIAL WARRANTY DEED; AND PROVIDING AN EFFECTIVE DATE.**

\*\*\*\*\*

**WHEREAS**, the El Paso Water Utilities Public Service Board (PSB), Trustee, has jurisdiction over certain parcels of land in northeast El Paso; and

**WHEREAS**, the Public Service Board approved the sale of 14.6275 acres of land in northeast El Paso located adjacent to the El Paso Electric Company Newman Power Plant near Stan Roberts Sr. Avenue; and

**WHEREAS**, the sale of this property to El Paso Electric Company will provide air and noise buffer zone around the El Paso Electric Company Newman Power Plant ; and

**WHEREAS**, the PSB finds that this parcel of land is inexpedient to the water system and it is in the public interest that said land should be sold to El Paso Electric Company in accordance with Section 272.001 of the Texas Local Government code, another entity having the power of eminent domain.

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

**Section 1.** That the findings and recitations set out in the preamble to this Resolution are true and correct and are hereby adopted by the Public Service Board and made a part of this Resolution for all purposes.

**Section 2.** That the Public Service Board hereby finds the land the subject of this Resolution to be inexpedient to the needs of the water utility system and hereby approves the conveyance of land described as follows:

Being a portion of Tract 1A, Section 11, Block 81, Township 1, Texas & Pacific Railway Company Surveys, El Paso County, Texas, being approximately 14.6275 acres of land to El Paso Electric Company, for a total sales price of \$146,275.00.

**Section 3.** That the Public Service Board hereby requests the City Council authorize the City Manager to sign a Special Warranty Deed and any other necessary documents to convey the property to El Paso Electric Company.

**Section 4.** That a copy of this Resolution shall be transmitted to the City Attorney's Office.

**PASSED AND APPROVED at a regular meeting of the Public Service Board of the City of El Paso, Texas, this 28th day of May, 2008, at which meeting a quorum was present, held in accordance with the provisions of V.T.C.A. Government Code, Sections 551.001 et. seq.**

PUBLIC SERVICE BOARD

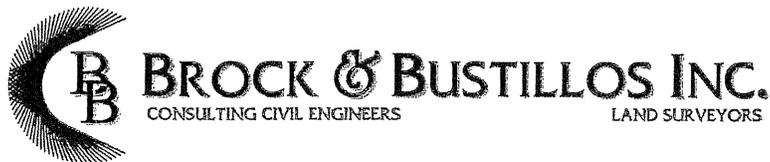
  
\_\_\_\_\_  
Chair

ATTEST:

  
\_\_\_\_\_  
Secretary-Treasurer

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Robert D. Andron, General Counsel



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

### METES AND BOUNDS DESCRIPTION

#### *Newman Plant Buffer Parcel 1*

*A 14.6275 acre parcel situate within the corporate limits of the City of El Paso, El Paso County, Texas as a portion of Tract 1A, Section 11, Block 81, Township 1, Texas & Pacific Railway Company Surveys, and being more particularly described by metes and bounds as follows.*

**COMMENCING** for reference at a 2 inch pipe found for the corner common to Sections 1, 2, 11, and 12, Block 81, Township 1, Texas & Pacific Railway Company Surveys, **WHENCE**, a 2 inch diameter pipe found for the corner common to Sections 11, 12, 13 and 14, Block 81, Township 1, Texas & Pacific Railway Company Surveys, bears South 02°04'19" West, a distance of 5,316.89 feet; **THENCE**, following the section line common to said Sections 11 and 12, South 02°04'19" West, a distance of 2,597.59 feet; **THENCE**, leaving section line common to said Sections 11 and 12, North 87°55'41" West, a distance of 60.00 feet; **THENCE**, North 87°09'35" West, a distance of 2,679.95 feet to a 1/2 inch rebar with survey cap No. TX 5337 set for the **TRUE POINT OF BEGINNING** of the parcel herein described;

**THENCE**, North 87°09'35" West, a distance of 564.59 feet to a 1/2 inch rebar with survey cap No. TX 5337 set for the southwest corner of the parcel herein described;

**THENCE**, North 57°56'53" East, a distance of 282.92 feet to a 1/2 inch rebar with survey cap No. TX 5337 set for an angle point;

**THENCE**, North 40°21'52" East, a distance of 240.15 feet to a 1/2 inch rebar with survey cap No. TX 5337 set for an angle point;

**THENCE**, North 06°35'52" East, a distance of 201.46 feet to a 1/2 inch rebar with survey cap No. TX 5337 set for an angle point;

**THENCE**, North 16°30'16" West, a distance of 257.79 feet to a 1/2 inch rebar with survey cap No. TX 5337 set for an angle point;

**THENCE**, North 36°08'48" West, a distance of 268.38 feet to a 1/2 inch rebar with survey cap No. TX 5337 set for an angle point;

**THENCE**, North 26°00'44" West, a distance of 309.18 feet to a 1/2 inch rebar with survey cap No. TX 5337 set for an angle point;

**THENCE**, North 24°39'19" West, a distance of 301.74 feet to a 1/2 inch rebar with survey cap No. TX 5337 set for an angle point;

**THENCE**, North 02°53'17" West, a distance of 89.81 feet to a 1/2 inch rebar with survey cap No. TX 5337 set for the northwest corner of the parcel herein described;

**THENCE**, South 87°06'43" East, a distance of 693.83 feet to a 1/2 inch rebar with survey cap No. TX 5337 set for the northeast corner of the parcel herein described;

**THENCE**, South 02°04'19" West, a distance of 1,633.01 feet to the **TRUE POINT OF BEGINNING** of the parcel herein described;

Said parcel contains 14.6275 acres (637,174.1 square feet), more or less, and being subject to all easements of record.

I hereby certify that this description was prepared by me or under my supervision.



Isaac Camacho,  
TX. R. P. L. S. No. 5337  
Date: March 12, 2008  
Newman Buffer 1







EL PASO ELECTRIC CO.  
NEWMAN POWER PLANT  
-----  
Lease of 643.69 acres  
Sale of 14,827.5 acres  
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Parcel 3

Parcel 7

Parcel 4

Parcel 5

STAN ROBERTS SR

El Paso  
Electric

Parcel 1  
1483  
acres

Parcel 6

Parcel 2

MAUDIE KING JR

LOCATION MAP ONLY