

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

**DEPARTMENT:** El Paso Water Utility Public Service Board

**AGENDA DATE:** Introduction: November 17, 2009  
Public Hearing: December 1, 2009

**CONTACT PERSON/PHONE:** Edmund G. Archuleta, P. E.  
President/CEO (594-5501)

Robert D. Andron  
General Counsel (594-5506)



**DISTRICT(S) AFFECTED:** District #4 – Northeast El Paso

**SUBJECT:**

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

This is the introduction of an ordinance relating to the sale of a 35 acre parcel of land in Northeast El Paso. Attached is an individual ordinance amending Ordinance No. 017219 which authorized the City Manager to sign a Special Warranty Deed and any other necessary documents to convey approximately 35 acres of land being a portion of Section 30, Block 80, Township 1, T&P Railway Surveys, City of El Paso, El Paso County, Texas, to EP Plaza Partners, L.P. the highest and sole bidder, for the purpose of extending the closing date to January 8, 2010.

**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?**

The City Council passed and adopted Ordinance No. 017219, October 20, 2009 authorizing the City Manager to sign a Special Warranty Deed and any other necessary documents to convey a 35 acre parcel of land to EP Plaza Partners, LP, the sole and highest bidder. The Commercial Contract provides that closing is to be on or before thirty (30) days of the approval by the City Council of the ordinance.

EP Plaza Partners, LP has requested that the City allow an extension of the closing date to January 8, 2010 so that EP Plaza Partners, LP can secure capital funding. The City and the El Paso Water Utilities Public Service Board are willing to adopt an ordinance to extend the closing date for the sale of the property to January 8, 2010.

**PRIOR COUNCIL ACTION:**

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

Yes. The city Council passed and adopted Ordinance No. 017219, October 20, 2009 authorizing the City Manager to sign a Special Warranty Deed and any other necessary documents to convey a 35 acre parcel of land to EP Plaza Partners, LP.

**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?**

This is the sale of a parcel of land inexpedient to the water and wastewater system to the highest and sole bidder. After closing, the City of El Paso will be paid 5% of the net proceeds pursuant to City of El Paso El Paso Water and Sewer Revenue Bond Covenants.

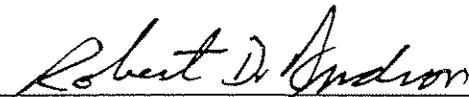
**BOARD / COMMISSION ACTION:**

**Enter appropriate comments or N/A**

Approved by the El Paso Water Utilities Public Service Board by Resolution dated April 8, 2009.

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

**DEPARTMENT HEAD:**



**(If Department Head Summary Form is initiated by Purchasing, client department should sign also)**

*Information copy to appropriate Deputy City Manager*

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

AN ORDINANCE AMENDING ORDINANCE NO. 017219, WHICH AUTHORIZED THE CITY MANAGER TO SIGN A SPECIAL WARRANTY DEED AND ANY OTHER NECESSARY DOCUMENTS TO CONVEY APPROXIMATELY 35 ACRES OF LAND BEING A PORTION OF SECTION 30, BLOCK 80, TOWNSHIP 1, TEXAS & PACIFIC RAILWAY SURVEYS, CITY OF EL PASO, EL PASO COUNTY, TEXAS, TO EP PLAZA PARTNERS, L.P., THE HIGHEST AND SOLE BIDDER, FOR THE PURPOSE OF EXTENDING THE CLOSING DATE TO JANUARY 8, 2010.

WHEREAS, the City Council approved Ordinance No. 017219, which authorized the City Manager to sign a Special Warranty Deed and any other necessary documents to convey approximately 35 acres of land being a portion of Section 30, Block 80, Township 1, Texas & Pacific Railway Surveys, City of El Paso, El Paso County, Texas, to EP Plaza Partners, L.P.;

WHEREAS, the Commercial Contract – Unimproved Property by and between the City of El Paso, acting by and through its El Paso Water Utilities Public Service Board and EP Plaza Partners, L.P. provides that closing of the sale of the parcel of land is to be on or before thirty (30) days of approval by the City Council of an ordinance authorizing the sale;

WHEREAS, EP Plaza Partners, L.P. has requested additional time to secure capital funding; and

WHEREAS, the City and the El Paso Water Utilities Public Service Board are willing to postpone closing on the sale of the parcel of land until January 8, 2010.

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

That the City Manager be authorized to sign the Amendment to Commercial Contract – Unimproved Property, attached hereto as EXHIBIT “A”, and made a part hereof, to extend the closing date until January 8, 2010.

ADOPTED THIS \_\_\_ DAY OF \_\_\_\_\_ 2009.

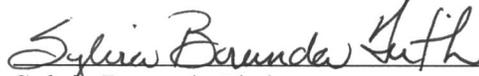
THE CITY OF EL PASO

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

ATTEST:

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

APPROVED AS TO FORM:

  
Sylvia Borunda Firth  
Senior Assistant City Attorney

AMENDMENT TO COMMERCIAL CONTRACT

UNIMPROVED PROPERTY

STATE OF TEXAS

COUNTY OF EL PASO

THIS AMENDMENT is to that certain Commercial Contract – Unimproved Property (“Contract”) by and between the City of El Paso, acting by and through its El Paso Water Utilities Public Service Board and EP Plaza Partners, L.P., as to the real property located in El Paso, El Paso County, Texas and more particularly described as follows: to-wit,

A parcel of land consisting of approximately 35 acres, more or less, being a portion of Section 30, Block 80, Township 1, Texas & Pacific Railway Company Surveys, City of El Paso, El Paso County, Texas.

WHEREAS, on October 19, 2009, the El Paso City Council passed and adopted an Ordinance authorizing the City Manager to execute a Special Warranty Deed to convey the hereinabove described real property to EP Plaza Partners, L. P. and,

WHEREAS, the Commercial Contract – Unimproved Property by and between the City of El Paso, acting by and through its El Paso Water Utilities Public Service Board and EP Plaza Partners, L.P. provides that closing of the sale of the parcel of land is to be on or before thirty days of approval by the City Council of an ordinance authorizing the sale; and,

WHEREAS, EP Plaza Partners, L.P. has requested the additional time to secure capital funding; and,

WHEREAS, the City and the El Paso Water Utilities Public Service Board are willing to postpone closing on the sale of the parcel of land until January 8, 2010; and,

WHEREAS, the parties desire to amend the Contract to provide that closing will be on or before January 8, 2010; NOW THEREFORE,

FOR AND INCONSIDERATION OF THE MUTUAL PROMISES AND COVENANTS RECITED HEREIN THE PARTIES AGREE AS FOLLOWS:

1. The Contract is hereby amended to provide that closing of the sale of the parcel of land shall be on or before January 8, 2010.
2. Should closing not occur on or before the above date, for whatever reason, then, in that event, the parties hereby release and agree to hold each other harmless from any and all claims, causes of action or obligations associated with this transaction except that the earnest money heretofore received by the El Paso Water Utilities shall be forfeited to the Utility without recourse of any kind from EP Plaza Partners, L.P.
3. All other terms and conditions of the Contract are incorporated herein by this reference, are affirmed and shall remain in full force and effect.

TO WITNESS WHICH AMENDMENT, THE PARTIES SIGN HEREINBELOW:

EP PLAZA PARTNERS, L.P.

EL PASO WATER UTILITIES PUBLIC

BY: MESITA INVSTORS, LLC.

SERVICE BOARD

ITS GENERAL PARTNER



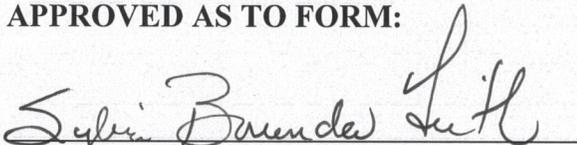
Meyer Marcus

Edmund G. Archuleta, P. E.

CITY OF EL PASO, TEXAS

Joyce A. Wilson, City Manager

APPROVED AS TO FORM:



Sylvia Borunda Firth  
Senior Assistant City Attorney