

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

CITY CLERK DEPT.
07 NOV - 8 AM 9:56

DEPARTMENT: El Paso Water Utilities Land Administration

AGENDA DATE: **Introduction—November 13, 2007**
Public Hearing and Final Reading—November 20, 2007

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



DISTRICT(S) AFFECTED: District #4 - northeast

SUBJECT:

AN ORDINANCE OF THE CITY OF EL PASO, TEXAS AMENDING ORDINANCE NO. 016735, WHICH AUTHORIZED THE SALE AND CONVEYANCE OF 4,832.99 ACRES OF LAND, MORE OR LESS, OUT OF BLOCKS 80 AND 81, TOWNSHIP 1, TEXAS AND PACIFIC RAILWAY COMPANY SURVEYS, CITY OF EL PASO, EL PASO COUNTY, TEXAS TO HUNT COMMUNITIES, LLC, TO REVISE THE DATE FOR THE EXECUTION OF THE MASTER PLANNED COMMUNITY DEVELOPMENT AGREEMENT AND TO REVISE THE DATE OF THE INITIAL CLOSING DATE FOR THE PURCHASE OF THE PHASE ONE PARCEL.

BACKGROUND / DISCUSSION:

Attached is a resolution dated August 8, 2007, whereby the El Paso Water Utilities Public Service Board (PSB), found Parcel MPC (4,832.99 acres of land) to be inexpedient to the needs of the water and waste water system; approved the sale of Parcel MPC to the highest bidder following a prequalification and public sealed competitive bidding process; and, requested the El Paso City Council pass an ordinance authorizing the sale and conveyance of Parcel MPC in phases to the highest bidder.

The PSB received a bid response to its public offering of Parcel MPC for sale from Hunt Communities, LLC on July 31, 2007 at a per-acre price bid of \$27,132.00, such bid being in excess of the minimum per-acre bid price as set by the PSB and being the higher of two bids submitted for Parcel MPC in response to the PSB Invitation for Bids.

By Ordinance No. 016735, the El Paso City Council authorized the City Manager to execute special warranty deeds or other documents as required for the phased sale and conveyance of the property described above to Hunt Communities, LLC.

Because of the complexity of the transaction and the requirement that Parcel MPC be sold in three distinct phases which identify development and construction time schedules before Hunt Communities, LLC can proceed with the development of the next identified phase, the El Paso Water Utilities (EPWU) staff has requested that the dates be revised for the execution of the Master Planned Community Development Agreement and the initial closing for the purchase of the Phase One Parcel, which will allow for the orderly development and sale as identified by Master Planned Community Development Agreement,

It is requested that Ordinance No. 016735 be amended to revise the date for the execution of the Master Planned Community Development Agreement between the City of El Paso and Hunt Communities, LLC to be Nov. 20, 2007 and revise the date for the initial closing for the purchase of the Phase One Parcel to be Jan. 18, 2008, and that all other provisions of Ordinance No. 016735 shall remain in full force and effect.

Also attached is a proposed amending ordinance to be passed and adopted by the City Council to authorize the Mayor to sign the Ordinance to amend Ordinance No. 016735 dated September 4, 2007.

PRIOR COUNCIL ACTION:

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

The City Council is required to authorize the City Manager to sign conveying documents for any land sale from the PSB.

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?

n/a

BOARD / COMMISSION ACTION:

Approved by the El Paso Water Utilities Public Service Board by Resolution dated August 8, 2007.

*******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

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ORDINANCE NO. _____

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AN ORDINANCE OF THE CITY OF EL PASO, TEXAS AMENDING ORDINANCE NO. 016735, WHICH AUTHORIZED THE SALE AND CONVEYANCE OF 4,832.99 ACRES OF LAND, MORE OR LESS, OUT OF BLOCKS 80 AND 81, TOWNSHIP 1, TEXAS AND PACIFIC RAILWAY COMPANY SURVEYS, CITY OF EL PASO, EL PASO COUNTY, TEXAS TO HUNT COMMUNITIES, LLC, TO REVISE THE DATE FOR THE EXECUTION OF THE MASTER PLANNED COMMUNITY DEVELOPMENT AGREEMENT AND TO REVISE THE DATE OF THE INITIAL CLOSING DATE FOR THE PURCHASE OF THE PHASE ONE PARCEL.

WHEREAS, by Resolution dated August 8, 2007, the El Paso Water Utilities Public Service Board (PSB), which has jurisdiction over those certain parcels of land described as Parcel MPC, being 4,832.99 acres of land, more or less and consisting of portions of Sections 17, 18, 19 and 20, Block 80, Township 1, and Sections 13, 14, 18, 19, 20 and 23, Block 81, Township 1, Texas and Pacific Railway Company Surveys, City of El Paso, El Paso County, Texas, found Parcel MPC to be inexpedient to the needs of the PSB water and waste water system; approved the sale of Parcel MPC to the highest bidder following a prequalification and public sealed competitive bidding process; and, requested the El Paso City Council to pass an ordinance authorizing the sale and conveyance of Parcel MPC in phases to the highest bidder; and,

WHEREAS, the PSB received a bid response to its public offering of Parcel MPC for sale from Hunt Communities, LLC on July 31, 2007 at a per-acre price bid of \$27,132.00, such bid being in excess of the minimum per-acre bid price as set by the PSB and being the higher of two bids submitted for Parcel MPC in response to the PSB Invitation for Bids; and,

WHEREAS, by Ordinance No. 016735, the El Paso City Council authorized the City Manager to execute special warranty deeds or other documents as required for the phased sale and conveyance of the property described above to Hunt Communities, LLC; and,

WHEREAS, because of the complexity of the transaction and the requirement that Parcel MPC be sold in three distinct phases which identify development and construction time schedules before Hunt Communities, LLC can proceed with the development of the next identified phase, the El Paso Water Utilities (EPWU) staff has requested that the dates be revised for the execution of the Master Planned Community Development Agreement and the initial closing for the purchase of the Phase One Parcel, which will allow for the orderly development and sale as identified by Master Planned Community Development Agreement,

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

That Ordinance No. 016735 be amended to indicate that the revised date for the execution of the Master Planned Community Development Agreement between the City of El Paso and Hunt Communities, LLC will be Nov. 20, 2007 and the revised date for the initial

closing for the purchase of the Phase One Parcel will be Jan. 18, 2008, and that all other provisions of Ordinance No. 016735 shall remain in full force and effect.

PASSED AND APPROVED this _____ day of _____, 2007.

THE CITY OF EL PASO

ATTEST:

John F. Cook, Mayor

Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:



Theresa Cullen-Garney
Deputy City Attorney

APPROVED AS TO FORM:



Robert D. Andron
General Counsel, PSB

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

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

DATE: November 7, 2007

SUBJECT: Request to place Item on City Council Agenda – Introduction

An Ordinance of the City of El Paso, Texas amending Ordinance No. 016735, which authorized the sale and conveyance of 4,832.99 acres of land, more or less, out of Blocks 80 and 81, Township 1, Texas and Pacific Railway Company Surveys, City of El Paso, El Paso County, Texas to Hunt Communities, LLC, to revise the date for the execution of the Master Planned Community Development Agreement and to revise the date of the initial closing date for the purchase of the Phase One Parcel. **(District #4)** [El Paso Water Utilities, Robert D. Andron (915) 594-5607]

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**Background**

A resolution dated August 8, 2007, (copy attached) whereby the El Paso Water Utilities Public Service Board (PSB), found Parcel MPC (4,832.99 acres of land) to be inexpedient to the needs of the water and waste water system, approved the sale of Parcel MPC to the highest bidder following a prequalification and public sealed competitive bidding process, and, requested the El Paso City Council to pass an ordinance authorizing the sale and conveyance of Parcel MPC in phases to the highest bidder.

The PSB received a bid response to its public offering of Parcel MPC for sale from Hunt Communities, LLC on July 31, 2007 at a per-acre price bid of \$27,132.00, such bid being in excess of the minimum per-acre bid price as set by the PSB and being the higher of two bids submitted for Parcel MPC in response to the PSB Invitation for Bids.

By Ordinance No. 016735, the El Paso City Council authorized the City Manager to execute special warranty deeds or other documents as required for the phased sale and conveyance of the Parcel MPC to Hunt Communities, LLC.

Because of the complexity of the transaction and the requirement that Parcel MPC be sold in three distinct phases which identify development and construction time schedules before Hunt Communities, LLC can proceed with the development of the next identified phase, the El Paso Water Utilities (EPWU) staff has requested that the dates be revised for the execution of the Master Planned Community Development Agreement and the initial closing for the purchase of the Phase One Parcel, which will allow for the orderly development and sale as identified by Master Planned Community Development Agreement.

City Manager Joyce Wilson  
Department Memo, November 7, 2007  
Request for Item for City Council Agenda  
**Introduction: November 13, 2007**  
Land Sale – 4800+ acres Northeast to Hunt  
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Also attached is the proposed amended Ordinance revising the date for the execution of the Master Planned Community Development Agreement and the date of the initial closing for the purchase of the Phase One Parcel.

### **ACTION REQUESTED**

That the Mayor is hereby authorized to sign the Ordinance amending Ordinance No. 016735 to revise the date for the execution of the Master Planned Community Development Agreement between the City of El Paso, El Paso Water Utilities Public Service Board and Hunt Communities, LLC to be Tuesday, Nov. 20, 2007 and to revise the date for the initial closing for the purchase of the Phase One Parcel to be Wednesday, Jan. 18, 2008, and that all other provisions of Ordinance No. 016735 shall remain in full force and effect.

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

Attached are two originals of the Ordinance amending Ordinance No. 016735 dated September 4, 2007 which has been reviewed and approved by El Paso Water Utilities Public Service Board staff. Upon approval and execution of the Ordinance amending Ordinance No. 016735, it is requested that the City Clerk provide the PSB Legal Section one fully executed original. The other original may be kept at the City Clerk's Office.

Please advise this office upon approval of the placement of this item on the City Council Agenda and arrangements will be made to hand-deliver document packets to the City Clerk's Office. Distribution via emailed backup documents will be sent to those listed below once approved by City Attorney's Office. If there are any questions, please call me at 594-5607 or email [bandron@epwu.org](mailto:bandron@epwu.org).

I plan to attend the City Council Meeting for the Introduction & Public Hearing. Thank you for your kind attention to this matter.

Attachments

#### **AWAITING APPROVAL BY CITY ATTORNEY'S OFFICE BEFORE DISTRIBUTION**

Cc: The Honorable Mayor John Cook (email)  
City Council Representatives (email)  
Pat Adatao, 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  
Marcela Navarrete, Chief Finance Officer, PSB  
Jim Shelton, Land Administration

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## RESOLUTION

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A RESOLUTION AUTHORIZING THE SALE TO THE HIGHEST BIDDER OF 4,832.99 ACRES, MORE OR LESS, OF LAND BEING PORTIONS OF SECTIONS 17,18,19, AND 20, BLOCK 80, TOWNSHIP 1 AND SECTIONS 13,14,18,19,20 AND 23, BLOCK 81, TOWNSHIP 1, TEXAS AND PACIFIC RAILWAY COMPANY SURVEYS, CITY OF EL PASO, 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 SPECIAL WARRANTY DEEDS OR OTHER DOCUMENTS AS REQUIRED FOR PHASED CONVEYANCE OF THE REAL PROPERTY AS RECOMMENDED BY THE PRESIDENT/CEO OF EL PASO WATER UTILITIES; AND, PROVIDING AN EFFECTIVE DATE.

WHEREAS, the El Paso Water Utilities Public Service Board (PSB), Trustee, has jurisdiction over certain lands in Northeast El Paso; and,

WHEREAS, the PSB has master-planned, with public input and City Council approval, several thousand acres of land in Northeast El Paso, the lands the subject of this Resolution being part of the Northeast Master Plan; and,

WHEREAS, the PSB finds that 4,832.99 acres of land, more or less, the subject of this Resolution are inexpedient to the water and wastewater system; and, the sale of which is in the interest of the citizens of El Paso and the ratepayers of the water and wastewater system. Such land to be sold to the highest bidder in accordance with Texas law; and,

WHEREAS, the PSB received a bid response to its public offering of the land for sale from Hunt Communities, LLC on July 31, 2007 for the per-acre price bid of \$27,132.00, such bid being in excess of the minimum bid price as set by the PSB and being the highest of two bids submitted for the property; NOW THEREFORE,

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

Section 1. The findings and recitations in the preamble to this Resolution are 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. The Public Service Board hereby finds that the real property that is the subject of this Resolution is inexpedient to the needs of the water and wastewater utility system, said real property being described as follows :

Portions of Sections 17, 18, 19, and 20, Block 80, Township 1 and Sections 13, 14, 18, 19, 20 and 23, Block 81, Township 1, Texas and Pacific Railway Company Surveys, City of El Paso, El Paso County, Texas consisting of 4,832.99 acres of land, more or less.

The surface estate of the real property to be sold with the reservation to the City acting by and through its El Paso Water Utilities Public Service Board of all subsurface estates, including the mineral estate, and of all groundwater rights, including all rights to drill for and produce subsurface water.

Section 3. The Public Service Board hereby awards the bid for the sale of the lands the subject of this Resolution and the associated Master Planned Community Development Agreement for development of such lands to Hunt Communities, L.L.C. of El Paso, Texas, which was the qualified bidder that submitted the highest responsive bid for such lands, being the per-acre amount stated hereinabove. Said lands to be conveyed by the City and purchased and developed by Hunt Communities, L.L.C. in phased stages as described in the Invitation for Bids and associated Master Planned Community Development Agreement.

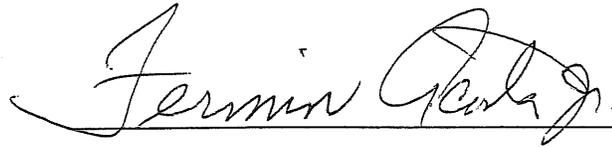
Section 4. The Public Service Board, Trustee, hereby requests that the City Council of the City of El Paso, authorize the City Manager to execute Special Warranty Deeds or other documents, including the Master Planned Community Development Agreement, as may be required or appropriate from time to time in order to complete the sale and conveyance of the lands along with their development by Hunt Communities, L.L.C.

Section 5. This Resolution shall be effective upon its passage and adoption. The Secretary/Treasurer is directed to transmit an original of this Resolution to the City Clerk of the City of El Paso, Texas. Said action being notice of the award of bid.

PASSED, ADOPTED AND APPROVED at a regular meeting of the Public Service Board of the City of El Paso, Texas this 8<sup>th</sup> day of August, 2007, at which meeting a quorum was present, said meeting being held in accordance with the provisions of Texas V.T.C.A. Government Code, Sections 551.001 et seq.

EL PASO WATER UTILITIES

PUBLIC SERVICE BOARD



Fermin Acosta, Jr., Chair

ATTEST:



Ruben Guerra, Secretary/Treasurer

APPROVED AS TO FORM:



Robert D. Andron, General Counsel

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07 NOV -8 AM 9:57

ORDINANCE NO. 016735

AN ORDINANCE OF THE CITY OF EL PASO, TEXAS AUTHORIZING THE CITY MANAGER TO EXECUTE SPECIAL WARRANTY DEEDS OR OTHER DOCUMENTS AS REQUIRED FOR PHASED SALE AND CONVEYANCE AS RECOMMENDED BY THE PRESIDENT/CEO OF EL PASO WATER UTILITIES OF THE FOLLOWING DESCRIBED REAL PROPERTY TO HUNT COMMUNITIES, LLC, THE HIGHEST BIDDER, SUCH LAND TOTALING APPROXIMATELY 4,832.99 ACRES OF LAND OUT OF PORTIONS OF SECTIONS 17, 18, 19 AND 20, BLOCK 80, TOWNSHIP 1, AND SECTIONS 13, 14, 18, 19, 20 AND 23, BLOCK 81, TOWNSHIP 1, TEXAS AND PACIFIC RAILWAY COMPANY SURVEYS, CITY OF EL PASO, EL PASO COUNTY, TEXAS, LOCATED IN NORTHEAST EL PASO.

WHEREAS, by Resolution dated August 8, 2007, the El Paso Water Utilities Public Service Board, (PSB), which has jurisdiction over those certain parcels of land described as: Parcel MPC, being 4,832.99 acres of land, more or less and consisting of portions of Sections 17, 18, 19 and 20, Block 80, Township 1, and Sections 13, 14, 18, 19, 20 and 23, Block 81, Township 1, Texas and Pacific Railway Company Surveys, City of El Paso, El Paso County, Texas, found the Parcel to be inexpedient to the water system, approved the sale of the land to the highest bidder, following a public sealed competitive bidding process, and requested the El Paso City Council to pass an ordinance authorizing the sale and conveyance of the real property in phases to the highest bidder; and,

WHEREAS, the PSB has master-planned, with public input and City Council approval, several thousand acres of land in Northeast El Paso which are the subject of this Ordinance; and,

WHEREAS, the PSB received a bid response to its public offering of the land for sale from Hunt Communities, LLC, on July 31, 2007 for the per-acre price bid of \$27,132.00, such bid being in excess of the minimum bid price as set by the PSB and being the higher of two bids submitted for the real property in response to the PSB Invitation for Bids;

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

That the City Manager is hereby authorized to execute Special Warranty Deeds, a Master Planned Community Development Agreement, and other documents as required for the phased sale and conveyance of the following described real property to Hunt Communities, L.L.C., the highest bidder, as recommended by the El Paso Water Utilities. The real property being more particularly described as Parcel MPC totaling approximately 4,832.99 acres of land out of Sections 17, 18, 19 and 20, Block 80, Township 1 and Sections 13, 14, 18, 19, 20 & 23, 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.

The surface estate of the real property shall be sold with the reservation to the City, acting by and through its El Paso Water Utilities Public Service Board of all subsurface estates, including the mineral estate, and of all groundwater rights, including all rights to drill for and produce

subsurface water of any kind or character.

The real property shall be conveyed in phased stages as described in the PSB Invitation for Bids and shall be developed pursuant to a Master Planned Community Development Agreement that is substantially, and without material change to, of the form of the example agreement as set out in the Invitation for Bids. The City Manager is authorized to execute any and all documents required to accomplish the sale and conveyance of said property and matters incident or otherwise related to the sale and conveyance of the said property and the execution and performance of an associated Master Planned Community Development Agreement.

For purposes of this ordinance only, the signature of the General Counsel of the Public Service Board shall be deemed to comply with Section 9 of Ordinance No.15791.

PASSED AND APPROVED this 4<sup>th</sup> day of September, 2007.

THE CITY OF EL PASO

John F. Cook  
John F. Cook, Mayor

ATTEST:

Richarda Duffy Momsen  
Richarda Duffy Momsen  
City Clerk

APPROVED AS TO FORM:

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

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