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

DEPARTMENT: **El Paso Water Utilities Public Service Board, Legal Section**

AGENDA DATE: **December 14, 2004 ~ INTRODUCTION**

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

DISTRICT(S) AFFECTED: n/a – Far West 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.

AN ORDINANCE AUTHORIZING THE MAYOR TO SIGN A SPECIAL WARRANTY DEED CONVEYING TO CENTRO DE SALUD FAMILIAR LA FE, INC., A 41,000 SQUARE FOOT PARCEL OF LAND BEING LOT 13, BLOCK 30, WESTWAY-UNIT III, EL PASO, EL PASO COUNTY, TEXAS, ALSO KNOWN AS 1722 SOUTHWOOD, EL PASO, TEXAS, LOCATED IN WEST EL PASO.

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 El Paso County Water Control and Improvement District—Westway (Westway) owned a certain parcel of land located at 1722 Southwood, El Paso, El Paso County, Texas. Westway entered into a Ground Lease and Option to Purchase Agreement with Centro De Salud Familiar La Fe, Inc., (La Fe) April 30, 2001, providing for a five-year primary lease term and granting a purchase option to La Fe until September 1, 2006, for the property. The $500 per month rent for the parcel is to be applied to the agreed upon purchase price of $30,000. El Paso Water Utilities absorbed Westway, its properties and debts, into the water utility system in the following manner. The Board of Directors of Westway passed a Resolution December 4, 2001, requesting the Texas Commission on Environmental Quality (TCEQ) issue its order dissolving Westway in accordance with Texas 74th Legislative Session, House Bill 1187, authorizing such dissolution and the transfer of the Westway territory, along with all of its assets and liabilities, to the City of El Paso's El Paso Water Utilities.

Attached are an original Ordinance and an original Special Warranty Deed.

PRIOR COUNCIL ACTION:
Has the Council previously considered this item or a closely related one?

The City Council of the City of El Paso and the El Paso Water Utilities Public Service Board passed a Joint Resolution and Agreement August 27, 2002, to provide for the acceptance of the transfer and conveyance by Westway of all of its properties, assets and liabilities to the El Paso Water Utilities. The TCEQ issued its order March 11, 2003, authorizing the dissolution of Westway and ordering Westway to provide to the El Paso Water Utilities and the Secretary of State all transfer documents, including all deeds, easements and bills of sale in possession of Westway with any other documentation necessary or appropriate to completely consolidate and transfer Westway's water and wastewater system into the El Paso Water Utilities water and wastewater system.

The Board of Directors of Westway, at a special meeting, February 17, 2004, passed and adopted a Resolution granting, selling, transferring and conveying all the assets of whatsoever nature or kind belonging to Westway, including real property and personalty owned by Westway to the El Paso Water Utilities, Trustees with complete management and control of the City Water and Wastewater System. Said Resolution was recorded in the deed records of El Paso County.

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?

Centro de Salud Familiar La Fe, Inc., by letter notified the El Paso Water Utilities that they exercised their option to purchase the property at 1722 Southwood, El Paso, El Paso County, Texas in accordance with the terms and conditions of the Option Agreed referred to hereinabove. At a regular meeting held August 11, 2004, the El Paso Water Utilities Public Service Board passed and approved a resolution (attached copy) approving the sale of the property at 1722 Southwood, El Paso, El Paso County, Texas, pursuant to the Option Agreement dated June 14, 2001, to Centro de Salud Familiar Le Fe, Inc. for the remaining balance of $10,500.00.

BOARD / COMMISSION ACTION:
Enter appropriate comments or N/A

**********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:** _____

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EL PASO WATER UTILITIES PUBLIC SERVICE BOARD

CITY CLERK DEPT.
04 DEC -3 PM 3:07

TO: **City Manager Joyce Wilson**

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

DATE: **December 2, 2004**

SUBJECT: **Request to place Item on City Council Agenda – Introduction: December 14, 2004**

AN ORDINANCE AUTHORIZING THE MAYOR TO SIGN A SPECIAL WARRANTY DEED CONVEYING TO CENTRO DE SALUD FAMILIAR LA FE, INC., A 41,000 SQUARE FOOT PARCEL OF LAND BEING LOT 13, BLOCK 30, WESTWAY-UNIT III, EL PASO, EL PASO COUNTY, TEXAS, ALSO KNOWN AS 1722 SOUTHWOOD, EL PASO, TEXAS, LOCATED IN WEST EL PASO.

INTRODUCTION – City Council Agenda – December 14, 2004

Background

The El Paso County Water Control and Improvement District—Westway (Westway) owned a certain parcel of land located at 1722 Southwood, El Paso, El Paso County, Texas. Westway entered into a Ground Lease and Option to Purchase Agreement with Centro De Salud Familiar La Fe, Inc., (La Fe) April 30, 2001, providing for a five-year primary lease term and granting a purchase option to La Fe until September 1, 2006, for the property. The $500 per month rent for the parcel is to be applied to the agreed upon purchase option price of $30,000.

El Paso Water Utilities absorbed Westway as follows: The Board of Directors of Westway passed a Resolution December 4, 2001, requesting the Texas Commission on Environmental Quality (TCEQ) issue its order dissolving Westway in accordance with Texas 74th Legislative Session, House Bill 1187, authorizing such dissolution and the transfer of the Westway territory, along with all of its assets, real or personal property, and liabilities, to the City of El Paso's El Paso Water Utilities.

The City Council of the City of El Paso and the El Paso Water Utilities Public Service Board passed a Joint Resolution and Agreement August 27, 2002, to provide for the acceptance of the transfer and conveyance by Westway of all of its properties, assets and liabilities to the El Paso Water Utilities. The TCEQ issued its order March 11, 2003, authorizing the dissolution of Westway and ordering Westway to provide to the El Paso Water Utilities and the Secretary of State all transfer documents, including all deeds, easements and bills of sale in possession of Westway with any other documentation necessary or appropriate to completely consolidate and transfer Westway's water and wastewater system into the El Paso Water Utilities water and wastewater system.

The Board of Directors of Westway, at a special meeting, February 17, 2004, passed and adopted a Resolution granting, selling, transferring and conveying all the assets of whatsoever nature or kind belonging to Westway, including real property and personalty owned by Westway to the El Paso Water Utilities, Trustees with complete management and control of the City Water and Wastewater System. Said Resolution was recorded in the deed records of El Paso County.

Centro de Salud Familiar La Fe, Inc., by letter notified the El Paso Water Utilities that they exercised their option to purchase the property at 1722 Southwood, El Paso, El Paso County, Texas in accordance with the terms and conditions of the Option Agreed referred to hereinabove. At a regular meeting held August 11, 2004, the El Paso Water Utilities Public Service Board passed and approved a resolution (attached copy) approving the sale of the property at 1722 Southwood, El Paso, El Paso County, Texas, pursuant to the Option Agreement dated June 14, 2001, to Centro de Salud Familiar Le Fe, Inc. for the remaining balance of $10,500.00.

ACTION REQUESTED

It is requested that the City Council authorize the Mayor to sign a Special Warranty Deed conveying to Centro de Salud Familiar La Fe, Inc., that certain 41,000 square foot parcel being Lot 13, Block 30, Westway-Unit III, El Paso, El Paso County, Texas, according to the map thereof on File in Book 18 Page 10, Plat Records of El Paso County, Texas. Said property is located at 1722 Southwood in far west El Paso.

REQUEST TO PLACE ITEM ON CITY COUNCIL AGENDA

Attached are a copy of the Ordinance and a copy of the Special Warranty Deed. Once approved and fully executed, the City Clerk's Office will keep a copy and route the original Special Warranty Deed back to the El Paso Water Utilities Legal Section so that arrangements can be made for it to be filed of record. Once the Special Warranty Deed is filed, this office will send a copy to the City Clerk for permanent record-keeping. The City Clerk's Office will also provide to this office a copy of the fully executed and numbered Ordinance for the file.

Once you have reviewed and approved the placement of this item on the City Council Agenda, this office will contact 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. Thank you.

Attachments

Cc: The Honorable Mayor Joe Wardy (email)
City Council Representatives (email)
Adrian Ocegueda, Executive Assistant to the Mayor (email)
Lisa A. Elizondo, City Attorney (email)
Theresa Cullen Garney, Deputy City Attorney (email)
Richarda Duffy Momsen, City Clerk (hard copies & email)
Nicholas Costanzo, Assistant General Manager (hard copies)
Marcela Navarrete, Chief Finance Officer, PSB (hard copies)
Juan Benavidez, Land Administrator, PSB (hard copies)

RESOLUTION

A RESOLUTION AUTHORIZING THE SALE OF LOT 13, BLOCK 30, WESTWAY-UNIT III, EL PASO COUNTY, TEXAS AS SHOWN ACCORDING TO THE MAP THEREOF ON FILE IN BOOK 18, PAGE 10, PLAT RECORDS OF EL PASO COUNTY, TEXAS AND KNOWN AS THE LA FE CLINIC AT 1722 SOUTHWOOD, EL PASO COUNTY, TEXAS 79835 AND REQUESTING THE EL PASO CITY COUNCIL AUTHORIZE THE MAYOR TO SIGN A SPECIAL WARRANTY DEED; AND PROVIDING AN EFFECTIVE DATE.

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WHEREAS, the El Paso County Water Control and Improvement District—Westway (Westway) owned that certain parcel of land located at 1722 Southwood, El Paso, El Paso County, Texas; and,

WHEREAS, Westway entered into a Ground Lease and Option to Purchase Agreement with Centro De Salud Familiar La Fe, Inc., (La Fe) April 30, 2001 providing for a five year primary lease term and granting a purchase option to La Fe until September 1, 2006 for the property at 1722 Southwood, El Paso, El Paso County, Texas; and,

WHEREAS, the Board of Directors of Westway passed a Resolution December 4, 2001 requesting the Texas Commission on Environmental Quality (TCEQ) to issue its order dissolving Westway in accordance with Texas 74th Legislative Session, House Bill 1187, authorizing such dissolution and the transfer of the Westway territory, along with all of its assets and liabilities, to the City of El Paso's El Paso Water Utilities; and,

WHEREAS, the City Council of the City of El Paso and the El Paso Water Utilities Public Service Board passed a Joint Resolution and Agreement August 27, 2002 to provide for the acceptance of the transfer and conveyance by Westway of all of its properties, assets and liabilities to the El Paso Water Utilities Public Service Board; and ,

WHEREAS, the TCEQ issued its order March 11, 2003 authorizing the dissolution of Westway and ordering Westway provide to the City of El Paso Water Utilities and the Secretary of State all transfer documents, including all deeds, easements and bills of sale in possession of Westway with any other documentation necessary or appropriate to completely consolidate and transfer Westway's water and wastewater system into the City of El Paso's water and wastewater system; and,

WHEREAS, the Board of Directors of Westway, at a special meeting, February 17, 2004 passed and adopted a Resolution granting, selling, transferring and conveying all the assets of whatsoever nature or kind belonging to Westway, including real property and personalty owned by Westway to the City of El Paso, Texas; its El Paso Water Utilities Public Service Board, Trustees of the City's Water and Wastewater System, which Resolution was recorded in the deed records of the El Paso County Courthouse; and,

WHEREAS, Centro de Salud Familiar La Fe, Inc., by letter notified the El Paso Water Utilities that they exercised their option to purchase the property at 1722 Southwood, El Paso, El Paso County, Texas in accordance with the terms and conditions of the Option Agreed referred to hereinabove; and,

WHEREAS, the El Paso Water Utilities, Public Service Board finds the property at 1722 Southwood, El Paso, El Paso, Texas is inexpedient to the water and wastewater system of the City of El Paso, Texas; **NOW, THEREFORE,**

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

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 that the property located at 1722 Southwood, El Paso, El Paso County, Texas and more particularly described as Lot 13, Block 30, Westway-Unit III, El Paso County, Texas, according to the map thereof on File in Book 18 Page 10, Plat Records of El Paso County, Texas to be inexpedient to the water and wastewater system.

Section 3. The Public Service Board hereby approves the sale of 1722 Southwood, El Paso, El Paso County, Texas pursuant to the Option Agreement dated June 14, 2001 to Centro de Salud Familiar La Fe, Inc. for the remaining balance of $10,500.

Section 4. That the Public Service Board requests the City Council to authorize the Mayor to sign a Special Warranty Deed and any necessary documentation conveying the property.

Section 5. That a copy of this Resolution 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 11th day of August, 2004, 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 Fermin Acosta, Jr.

ATTEST:

Secretary-Treasurer Ruben Guerra

APPROVED AS TO FORM:

Robert D. Andron, General Counsel

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ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING THE MAYOR TO SIGN A SPECIAL WARRANTY DEED CONVEYING TO CENTRO DE SALUD FAMILIAR LA FE, INC., A 41,000 SQUARE FOOT PARCEL OF LAND BEING LOT 13, BLOCK 30, WESTWAY-UNIT III, EL PASO, EL PASO COUNTY, TEXAS, ALSO KNOWN AS 1722 SOUTHWOOD, EL PASO, TEXAS, LOCATED IN WEST EL PASO.

WHEREAS, the El Paso County Water Control and Improvement District—Westway (Westway) owned that certain parcel of land located at 1722 Southwood, El Paso, El Paso County, Texas; and,

WHEREAS, Westway entered into a Ground Lease and Option to Purchase Agreement with Centro De Salud Familiar La Fe, Inc., (La Fe) April 30, 2001, providing for a five year primary lease term and granting a purchase option to La Fe until September 1, 2006, for the property at 1722 Southwood, El Paso, El Paso County, Texas; and,

WHEREAS, the Board of Directors of Westway passed a Resolution December 4, 2001, requesting the Texas Commission on Environmental Quality (TCEQ) issue its order dissolving Westway in accordance with Texas 74th Legislative Session, House Bill 1187, authorizing such dissolution and the transfer of the Westway territory, along with all of its assets and liabilities, to the El Paso Water Utilities; and,

WHEREAS, the City Council of the City of El Paso and the El Paso Water Utilities Public Service Board passed a Joint Resolution and Agreement August 27, 2002, to provide for the acceptance of the transfer and conveyance by Westway of all of its properties, assets and liabilities to the El Paso Water Utilities; and,

WHEREAS, the TCEQ issued its order March 11, 2003, authorizing the dissolution of Westway and ordering Westway to provide to the El Paso Water Utilities and the Secretary of State all transfer documents, including all deeds, easements and bills of sale in possession of Westway with any other documentation necessary or appropriate to completely consolidate and transfer Westway's water and wastewater system into the El Paso Water Utilities water and wastewater system; and,

WHEREAS, the Board of Directors of Westway, at a special meeting, February 17, 2004, passed and adopted a Resolution granting, selling, transferring and conveying all the assets of whatsoever nature or kind belonging to Westway, including real property and personalty owned by Westway to the El Paso Water Utilities, which Resolution was recorded in the deed records of the El Paso County Courthouse; and,

WHEREAS, Centro de Salud Familiar La Fe, Inc., by letter notified the El Paso Water Utilities that they desired to exercise their option to purchase the property at 1722 Southwood, El Paso, El Paso County, Texas, in accordance with the terms and conditions of the Option Agreed referred to hereinabove; and,

WHEREAS, at a regular meeting held August 11, 2004, the El Paso Water Utilities Public Service Board passed and approved a resolution approving the sale of the property located at 1722 Southwood, El Paso, El Paso County, Texas, pursuant to the Option Agreement dated June 14, 2001, to Centro de Salud Familiar La Fe, Inc., for the remaining balance of $10,500.00; **NOW, THEREFORE,**

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

That the Mayor is hereby authorized to sign a Special Warranty Deed conveying to Centro de Salud Familiar La Fe, Inc., a 41,000 square foot parcel of land being Lot 13, Block 30, Westway-Unit III, El Paso, El Paso County, Texas, according to the map thereof on File in Book 18, Page 10, Plat Records of El Paso County, Texas. Said property is located at 1722 Southwood in far west El Paso.

PASSED AND APPROVED this _____ day of _____, 2004.

THE CITY OF EL PASO

_____
Joe Wardy, Mayor

ATTEST:

_____
Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:

Robert D. Andron
General Counsel, PSB

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SPECIAL WARRANTY DEED

Date: _____, 2004

Grantor: The City of El Paso, Texas, a Texas municipal corporation, acting on behalf of El Paso Water Utilities

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

Grantee: Centro de Salud Familiar La Fe, Inc.

Grantee's Mailing Address (including county): 608 St. Vrain
El Paso, Texas
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.

Property (including any improvements):

Lot 13, Block 30, Westway-Unit III, El Paso, El Paso County, Texas, according to the map thereof on File in Book 18, Page 10, Plat Records of El Paso County, Texas, also known as 1722 Southwood, El Paso County, Texas 79835.

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:
   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: 15%

      ii. Apartments, duplexes and other multi-family dwellings, single-family detached or attached dwellings, and all 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;
iii. In rights-of-way whose slopes are 15 degrees or greater from the horizontal; and
iv. On sites whose slopes are 25 degrees or greater from the horizontal.

4. Grantor reserves for itself, its successors and assigns, all water and water rights that are in or under the property, or that may be produced from the property, including any right to receive water.

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, heirs, executors, 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 heirs, executors, 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.

When the context requires, singular nouns and pronouns include the plural.

THE CITY OF EL PASO

ATTEST:

_____
MAYOR, Joe Wardy

_____
Richarda Duffy Momsen, City Clerk

APPROVED AS TO FORM:

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

ACKNOWLEDGMENT

STATE OF TEXAS }
}
COUNTY OF EL PASO }

This instrument was acknowledged before me on the _____ day of _____, 2004, by

_____ as the _____ of El Paso.

_____
Notary Public in & for The State of Texas

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