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

DEPARTMENT: El Paso Water Utilities Public Service Board

AGENDA DATE:	Introduction	12/22/2015
	Public Hearing	01/12/2016

CONTACT PERSON/PHONE: Cynthia Osborn, EPWU Real Estate Manager and Counsel, 594-5636

DISTRICT(S) AFFECTED: 8

SUBJECT: APPROVE the following Ordinance

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO SIGN A DEED AND ANY OTHER DOCUMENTS NECESSARY TO CONVEY TO THE STATE OF TEXAS, ACTING BY AND THROUGH THE TEXAS TRANSPORTATION COMMISSION, A 0.1952 ACRE PARCEL OF LAND SITUATED IN THE JOHN BARKER SURVEY, NUMBER 10, ABSTRACT NUMBER 7, EL PASO COUNTY, TEXAS, BEING PART OF LOT 13 OF LA CALAVERA SETTLEMENT, AN ADDITION TO THE CITY OF EL PASO, EL PASO COUNTY, TEXAS, SAID PARCEL TO BE INCLUDED IN THE LOOP 375 BORDER WEST HIGHWAY PROJECT.

(District 8) El Paso Water Utilities, Cynthia Osborn, Real Estate Manager and Counsel. (915) 594-5636.

BACKGROUND / DISCUSSION:

The State of Texas, acting by and through the Texas Transportation Committee requires a portion of property located at the dead end of San Marcos Drive, El Paso, El Paso County, Texas, owned by the City of El Paso and managed by the El Paso Water Utilities – Public Service Board, for use in its Loop 375 Border West Expressway project.

The El Paso Water Utilities – Public Service Board has deemed the property inexpedient to the system and authorized the President/CEO of the El Paso Water Utilities –Public Service Board to recommend conveyance to the State of Texas at the highest appraised value.

The property has been independently appraised at a value of \$3,400.00.

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

On March 29, 2011, the City Council approved the conveyance to the State of Texas of approximately 12.080 acres of land owned by the City of El Paso and managed by the El Paso Water Utilities – Public Service Board, for use by the State of Texas in its Loop 375 Transmountain Road Widening project in northwest El Paso.

AMOUNT AND SOURCE OF FUNDING: N/A

BOARD / COMMISSION ACTION:

On September 9, 2015, The El Paso Water Utilities-Public Service Board declared the property inexpedient to the system and authorized the President/CEO to recommend conveyance to the State of Texas at the highest appraised value.

AFTER EXECUTION OF ALL DOCUMENTS, PLEASE CONTACT CYNTHIA OSBORN AT 594-5636 TO PICK UP THE DOCUMENTS. THANK YOU.

ORDINANCE NO.

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO SIGN A DEED AND ANY OTHER DOCUMENTS NECESSARY TO CONVEY TO THE STATE OF TEXAS, ACTING BY AND THROUGH THE TEXAS TRANSPORTATION COMMISSION, A 0.1952 ACRE PARCEL OF LAND SITUATED IN THE JOHN BARKER SURVEY, NUMBER 10, ABSTRACT NUMBER 7, EL PASO COUNTY, TEXAS, BEING PART OF LOT 13 OF LA CALAVERA SETTLEMENT, AN ADDTION TO THE CITY OF EL PASO, EL PASO COUNTY, TEXAS, SAID PARCEL TO BE INCLUDED IN THE LOOP 375 BORDER WEST HIGHWAY PROJECT.

WHEREAS, the Texas Department of Transportation has requested that the City of El Paso convey a 0.1952 acre parcel, more or less, situated in the John Barker Survey Number 10, Abstract Number 7, El Paso County Texas, being part of Lot 13 of La Calavera Settlement, an addition to the City of El Paso, El Paso County, Texas (Parcel 14), to the State of Texas, acting by and through the Texas Transportation Commission, said parcel to be included in the Loop 375 Border West Expressway Project;

WHEREAS, the El Paso Water Utilities Public Service Board (EPWU/PSB) holds certain real properties in its land inventory, including Parcel 14, that are owned by the City of El Paso, but are under the management and control of the EPWU/PSB;

WHEREAS, at its regular meeting on September 9, 2015, the Public Service Board determined that Parcel 14 is inexpedient to the EPWU/PSB system and authorized the President/CEO to recommend conveyance of the identified parcel to the State of Texas at the highest appraised value;

WHEREAS, the State of Texas has agreed to purchase Parcel 14 for the appraised value of \$3,400.00;

WHEREAS, the State of Texas is a governmental entity that has the power of eminent domain;

WHEREAS, Section 272.001(b)(5) of the Texas Local Government Code provides that a political subdivision of the state may convey real property to a governmental entity that has the power of eminent domain without giving notice and requesting sealed bids; and

WHEREAS, the El Paso City Council finds that it is in the public interest to convey the identified property to the State of Texas,

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

That the City Manager is authorized to sign a deed and any other necessary documents, in a form approved by the City Attorney's Office, conveying to the State of Texas, acting by and through the Texas Transportation Commission, the following identified real property, to be included in the Loop 375 Border West Expressway Project:

Parcel 14—A 0.1952 acre (8,501 square feet) parcel of land, more or less, situated in the John Barker Survey Number 10, Abstract Number 7, El Paso County Texas, being part of Lot 13 of La Calavera Settlement, an addition to the City of El Paso, El Paso County, Texas, as more particularly described in Exhibit "A" attached hereto and made a part hereof for all purposes.

PASSED AND APPROVED this _____ day of ______, 2015.

CITY OF EL PASO

Oscar Leeser Mayor

ATTEST:

Richarda D. Momsen City Clerk

APPROVED AS TO FORM:

masa Cullen

Theresa Cullen Deputy City Attorney

APPROVED AS TO CONTENT AND FORM:

Cynthia Osborn EPWU Real Estate Manager and Counsel

15-1004-434.024/478553Ordinance/Sale of Property/TxDOT Parcel 14

ORDINANCE NO.

County:El PasoParcel:14Highway:Loop 375 Border Highway WestProject Limits:From Racetrack DriveTo U.S.-54RCSJ:2552-04-041

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PROPERTY DESCRIPTION FOR PARCEL 14

BEING a 0.1952 acre (8,501 square feet) parcel of land situated in the John Barker Survey Number 10, Abstract Number 7, El Paso County, Texas, being part of Lot 13 of La Calavera Settlement, an addition to the City of El Paso, El Paso County, Texas, as recorded in Volume 4, Page 31 of the Plat Records of El Paso County, Texas (P.R.E.P.C.T.) and being part of the Public Service Board of the City of El Paso tract (per 2013 El Paso County Appraisal District) (no deed of record found), said 0.1952 acre parcel being more particularly described by metes and bounds as follows:

COMMENCING at a 1/2-inch iron rod found for an angle point in the westerly right-of-way line of U.S. Interstate Highway 10 (variable width right-of-way) (CSJ: 2121-2-7) at 200.00 feet right of Existing U.S. Interstate Highway 10 Baseline Station 298+00.00, same being an angle point in the east line of that called 47.9806 acre tract described as Tract 2-A-1 to Asarco Texas Custodial Trust as recorded in Document Number 20090087978 of the Official Public Records of Real Property, El Paso County, Texas;

THENCE North 53 degrees 05 minutes 47 seconds West, departing said westerly right-of-way line of U.S. Interstate Highway 10 and said east line of 47.9806 acre tract, over and across said 47.9806 acre tract, a distance of 362.37 feet to a 1/2-inch iron rod set with yellow plastic cap stamped "HALFF" (hereinafter referred to as "with cap") at 103.91 feet right of Loop 375 Border Highway West Proposed Baseline Station 270+61.92 for corner, having coordinates of X = 375,070.84, Y = 10,670,837.54 for the POINT OF BEGINNING of the herein described parcel and the beginning of the proposed Access Denial Line (hereinafter referred as "A.D.L."), said point also being on the southeast line of said Lot 13 for an angle point in the west line of said 47.9806 acre tract on a non-tangent curve to the left having a radius of 2471.00 feet, whose chord bears North 32 degrees 11 minutes 19 seconds West, a distance of 56.51 feet;

- 1) THENCE Northwesterly, leaving the southeast line of said Lot 13, over and across said Lot 13, with said proposed right-of-way line of Loop 375 Border Highway West, with said curve and with said proposed A.D.L., through a central angle of 01 degree 18 minutes 37 seconds, an arc distance of 56.51 feet to a 5/8-inch iron rod with aluminum cap marked "TX DEPT OF TRANSPORTATION PROPERTY CORNER" (hereinafter referred to as "A.D.") set at 105.21 feet right of Loop 375 Border Highway West Proposed Baseline Station 270+03.07 for corner and the point of tangency; **
- 2) THENCE North 32 degrees 50 minutes 37 seconds West, continuing with said proposed right-of-way line of Loop 375 Border Highway West, over and across said Lot 13, and with said proposed A.D.L., a distance of 145.43 feet to a 1/2-inch iron rod set with cap at 104.38 feet right of Loop 375 Border Highway West Proposed Baseline Station 268+51.55 for corner and end of said proposed A.D.L., said corner being in the northwest line of said Lot 13 and said west line of 47.9806 acre tract;

County:	El Paso
Parcel:	<u>14</u>
Highway:	Loop 375 Border Highway West
Project Limits:	From Racetrack Drive
	To U.S54
RCSJ:	2552-04-041

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- 3) THENCE North 56 degrees 59 minutes 51 seconds East, departing said proposed rightof-way line of Loop 375 Border Highway West, with said northwest line of said Lot 13 and said west line of 47.9806 acre tract, a distance of 63.42 feet to a P.K. nail found in rock at 40.99 feet right of Loop 375 Border Highway West Proposed Baseline Station 268+53.61 for the northeast corner of said Lot 13;
- 4) THENCE South 20 degrees 57 minutes 49 seconds East, with the northeast line of said Lot 13, same being said west line of 47.9806 acre tract, a distance of 204.13 feet to a 5/8inch iron rod found with cap "RPLS 2998" at 82.00 feet right of Loop 375 Border Highway West Proposed Baseline Station 270+58.46 for the southeast corner of said Lot 13;
- 5) THENCE South 51 degrees 03 minutes 42 seconds West, with said southeast line of Lot 13 and said west line of 47.9806 acre tract, a distance of 22.16 feet to the POINT OF BEGINNING and containing 0.1952 of an acre (8,501 square feet) of land, more or less.

** The monument described and set in this call may be replaced with a TxDOT Type II Marker upon the completion of the highway construction project under the supervision of a Registered Professional Land Surveyor, either employed or retained by TxDOT.

Access is prohibited across the "Denial of Access Line" to the highway facility from the remainder of the property.

Basis of bearings is the Texas Coordinate System of 1983, Central Zone 4203 (NAD 83/93/NAVD 88). Elevations were derived from GPS observations using geoid model 2012a (CONUS). All coordinates shown hereon are surface. The surface adjustment factor is 1.000231. Units: U.S. Survey Feet.

This property description is accompanied by a parcel plat of even date.

I, Dan H. Clark, Registered Professional Land Surveyor, hereby certify that this legal description and the accompanying parcel plat of even date represent an actual survey made on the ground under my supervision.

DAN H. CLARK REGISTERED PROFESSIONAL LAND SURVEYOR TEXAS NUMBER 6011 TBPLS FIRM NO. 10029600





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 for record in the public records: your Social Security Number or your Driver's License Number.



DEED

TxDOT ROW CSJ: 2552-04-041

TxDOT Parcel No.: 14

Grantor(s), whether one or more:

The City of El Paso for the use and benefit of Its El Paso Water Utilities Public Service Board

Grantor's Mailing Address (including county):

1154 Hawkins El Paso, Texas 79925

El Paso County

Grantee:

The State of Texas, acting by and through the Texas Transportation Commission

Grantee's Authority:

The Texas Transportation Commission is authorized under the Texas Transportation Code to purchase land and such other property rights (including requesting that counties and municipalities acquire highway right of way) deemed necessary or convenient to a state highway or turnpike project to be constructed, reconstructed, maintained, widened, straightened, or extended, or to accomplish any purpose related to the location, construction, improvement, maintenance, beautification, preservation, or operation of a state highway or turnpike project.

The Texas Transportation Commission is also authorized under the Texas Transportation Code, Chapter 203 to acquire or request to be acquired such other property rights deemed necessary or convenient for the purposes of operating a state highway or turnpike project, with control of access as necessary to facilitate the flow of traffic and promote the public safety and welfare on both non-controlled facilities and designated controlled access highways and turnpike projects.

Grantee's Mailing Address (including county): Texas Department of Transportation 7745 Chevy Chase Dr., Bldg 5, Suite 230 Austin, Texas 78753 Travis County Form SPD-ROW-N-14 (Rev. 02/05/2015) Page 2 of 3

Consideration:

The sum of Three Thousand Four Hundred and no/100 Dollars (\$3,400.00) to Grantor in hand paid by Grantee, receipt of which is hereby acknowledged, and for which no lien is retained, either expressed or implied.

Property:

All of that certain tract or parcel of land in El Paso County, Texas, being more particularly described in the attached Exhibit A (the "**Property**").

Reservations from and Exceptions to Conveyance and Warranty:

This conveyance is made by Grantor and accepted by Grantee subject to the following:

- 1. Visible and apparent easements not appearing of record.
- 2. Any discrepancies, conflicts, or shortages in area or boundary lines or any encroachments or any overlapping of improvements which a current survey would show.
- 3. Easements, restrictions, reservations, covenants, conditions, oil and gas leases, mineral severances, and encumbrances for taxes and assessments (other than liens and conveyances) presently of record in the Official Public Records of El Paso County, Texas, that affect the property, but only to the extent that said items are still valid and in force and effect at this time.

Grantor reserves all of the oil, gas, sulfur in and under the Property but waives all rights of ingress and egress to the surface thereof for the purpose of exploring, developing, mining or drilling for same; however, nothing in this reservation shall affect the title and rights of the Grantee, its successors and assigns, to take and use all other minerals and materials thereon, therein and thereunder.

Grantor is retaining title to the following improvements ("Retained Improvements") located on the Property, to wit: None

Grantor covenants and agrees to remove the Retained Improvements from the Property by N/A day of N/A, N/A, subject to such extensions of time as may be granted by Grantee in writing. In the event Grantor fails, for any reason, to remove the Retained Improvements within the time prescribed, then, without further consideration, title to all or part of such Retained Improvements not so removed shall pass to and vest in Grantee, its successors and assigns, forever.

Access on and off Grantor's remaining property to and from the State highway facility shall be permitted except to the extent that such access is expressly prohibited by the provisions set out in Exhibit "A". Grantor acknowledges that such access on and off the State highway facility is subject to regulation as may be determined by the Texas Department of Transportation to be necessary in the interest of public safety or by applicable local municipal or county zoning, platting or permitting requirements.

GRANTOR, for the Consideration and subject to the Reservations from Conveyance and the Exceptions to Conveyance and Warranty, grants, sells and conveys to Grantee the Property, together with all and singular the rights and appurtenances thereto in anywise belonging, to have and to hold it to Grantee and Grantee's successors and assigns forever. Grantor binds Grantor and Grantor's heirs, successors and assigns to Warrant and Forever Defend all and singular the Property to Grantee and Grantee's successors and assigns against

every person whomsoever lawfully claiming or to the claim the same or any part thereof, except as to the Reservations from Conveyance and the Exceptions to Conveyance and Warranty.

EXECUTED on the date(s) of acknowledgment indicated below.

GRANTOR:

The City of El Paso for the use and benefit of Its El Paso Water Utilities Public Service Board

By:_

Tomas Gonzalez, City Manager

Corporate Acknowledgment

State of Texas

County of El Paso

This instrument was acknowledged before me on _____

by Tomas Gonzalez, City Manager for The City of El Paso for the use and benefit of Its El Paso Water Utilities

Public Service Board, on behalf of said entity.

Notary Public's Signature

APPROVED AS TO FORM AND CONTENT:

Cynthia Osborn EPWU Real Estate Manager and Counsel

County:El PasoParcel:14Highway:Loop 375 Border Highway WestProject Limits:From Racetrack DriveTo U.S.-54RCSJ:2552-04-041

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This property description is accompanied by a parcel plat of even date.

I, Dan H. Clark, Registered Professional Land Surveyor, hereby certify that this legal description and the accompanying parcel plat of even date represent an actual survey made on the ground under my supervision.

6/24/2014

DAN H. CLARK REGISTERED PROFESSIONAL LAND SURVEYOR TEXAS NUMBER 6011 TBPLS FIRM NO. 10029600





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