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

DEPARTMENT: Sun Metro

AGENDA DATE: July 9, 2019

CONTACT PERSON/PHONE: Jay Banasiak, Director, Sun Metro, 212-3300
Yvette Hernandez, P.E., CID Director of Grant Funded Programs, 212-1860

DISTRICT(S) AFFECTED: 5

STRATEGIC GOAL: No. 7: Enhance and Sustain El Paso's Infrastructure Network

SUBJECT:
That the City Manager be authorized to sign a Memorandum of Understanding between the City of El Paso (the "City") and El Paso Water Utilities – Public Service Board ("EPWU") pursuant to the "Joint Resolution Between the El Paso City Council and the El Paso Water Utilities – Public Service Board Setting Forth the Policies, Procedures and Reimbursements Related to Transfers of Real Estate, Land Use Policies, Relocation of EPWU-PSB Facilities, Joint Use and Water Rights" (approved April 5, 2010; amended September 26, 2012 and December 13, 2017). The Memorandum of Understanding accomplishes the transfer of 0.5059 acres located at 13420 RC Poe Road, El Paso, Texas (the "Property"), at the fair market price of $2.20 per square foot totaling $48,477.00, from EPWU's land inventory to the City's land inventory. EPWU has determined that the Property is inexpedient to the City's water and wastewater system and the City has requested the transfer of the Property to provide bus access from RC Poe Road to the Sun Metro Mass Transit Far East Transfer Center and for the construction of a new driveway and parking lot for the Transfer Center.

BACKGROUND / DISCUSSION:

Sun Metro's Far East Transfer Center (FETC) is the terminus for the proposed Montana Rapid Transit System project. Allowing additional driveway access from the FETC onto RC Poe will improve circulation for the BRIO buses at the transfer center. This memorandum of understanding authorizes the transfer of land for the driveway from the EPWU's land inventory to the City's land inventory. The City will pay EPWU $48,477, the market value of the property, for the land transfer.

COUNCIL REPRESENTATIVE BRIEFING:

Was a briefing provided? ☐ Yes or ☒ Not Applicable (Routine)
If yes, select the applicable districts.

☐ District 1
☐ District 2
☐ District 3
☐ District 4
☐ District 5
☐ District 6
☐ District 7
☐ District 8
☐ All Districts

PRIOR COUNCIL ACTION:
N/A

AMOUNT AND SOURCE OF FUNDING:
CO's - $48,477.00

BOARD / COMMISSION ACTION:

N/A

**********REQUIRED AUTHORIZATION**********

DEPARTMENT HEAD:

RESOLUTION

BE IT RESOLVED BY THE MASS TRANSIT DEPARTMENT BOARD OF THE CITY OF EL PASO:

That the City Manager be authorized to sign a Memorandum of Understanding between the City of El Paso (the "City") and El Paso Water Utilities – Public Service Board ("EPWU") pursuant to the "Joint Resolution Between the El Paso City Council and the El Paso Water Utilities – Public Service Board Setting Forth the Policies, Procedures and Reimbursements Related to Transfers of Real Estate, Land Use Policies, Relocation of EPWU-PSB Facilities, Joint Use and Water Rights" (approved April 5, 2010; amended September 26, 2012 and December 13, 2017). The Memorandum of Understanding accomplishes the transfer of 0.5059 acres located at 13420 RC Poe Road, El Paso, Texas (the "Property"), at the fair market price of $2.20 per square foot totaling $48,477.00, from EPWU's land inventory to the City's land inventory. EPWU has determined that the Property is inexpedient to the City's water and wastewater system and the City has requested the transfer of the Property to provide bus access from RC Poe Road to the Sun Metro Mass Transit Far East Transfer Center and for the construction of a new driveway and parking lot for the Transfer Center.

APPROVED this_____ day of _____, 2019.

CITY OF EL PASO

_____
Dee Margo
Chairman

ATTEST:

_____
Laura D. Prine
City Clerk

APPROVED AS TO FORM:

Roberta Brito
Roberta Brito
Assistant City Attorney

APPROVED AS TO CONTENT:

Ted Marquez
Deputy City Manager, Public Works

APPROVED AS TO CONTENT:

Jay Banasiak
Jay Banasiak
Director, Mass Transit

STATE OF TEXAS	§	**MEMORANDUM OF UNDERSTANDING**
	§	**Transfer of Land for**
COUNTY OF EL PASO	§	**Sun Metro Mass Transit – Far East Transfer Center**

This Memorandum of Understanding ("MOU") is entered into this ____ day of _____, 2019 by and between the **CITY OF EL PASO TEXAS** ("City"), a home rule municipal corporation, and the **EL PASO WATER UTILITIES – PUBLIC SERVICE BOARD** ("EPWater"), a component unit of the City (hereinafter collectively referred to as the "Parties").

WHEREAS, pursuant to the authority granted by the City of El Paso Ordinance No. 752 approved by the City Council on May 22, 1952, EPWater has been vested with the management and control of the City's water and wastewater system ("System"); and

WHEREAS, pursuant to the authority granted by the City of El Paso Ordinance No. 16668 approved by the City Council on July 25, 2008, EPWater has been vested with the management and control of the City's stormwater system; and

WHEREAS, on April 5, 2010, the Parties entered into a "Joint Resolution Between the El Paso City Council and the El Paso Water Utilities – Public Service Board Setting Forth The Policies, Procedures and Reimbursements Related To Transfers Of Real Estate, Land Use Policies, Relocation Of EPWU-PSB Facilities, Joint Use And Water Rights," as amended September 26, 2012 and December 13, 2017 ("Joint Resolution"); and

WHEREAS, EPWater has determined that a certain parcel of land in its land inventory totaling approximately 0.5059 acres, located at 13420 R C Poe Road, is inexpedient to the System, and the property can be transferred to the City under the Joint Resolution; and

WHEREAS, the City has requested that EPWater transfer approximately 0.5059 acres from the EPWater's land inventory to the City's land inventory under the Joint Resolution in order to provide bus access from R C Poe Road to the Sun Metro Mass Transit Far East Transfer Center ("Center") and to construct for a new driveway and parking lot for the Center; and

WHEREAS, the terms of the Joint Resolution allow for the transfer of EPWater land for "Public Facilities" such as a Sun Metro Mass Transit Transfer Center.

NOW, THEREFORE, FOR AND IN CONSIDERATION OF THE MUTUAL PROMISES, OBLIGATIONS AND BENEFITS CONTAINED HEREIN, EPWATER AND THE CITY AGREE AS FOLLOWS:

Section 1.01 This MOU shall be effective upon the date of its execution by both parties ("Effective Date").

Section 1.02 EPWater agrees to transfer the following legally described parcel of real property, located at 13420 R C Poe Road, for the above described use in connection with the Center, to the City's land inventory:

> A portion of Lot 2, Block 103, Tierra Del Este Subdivision Unit Twenty Two, City of El Paso, El Paso County, Texas, totaling approximately 0.5059 acres, as depicted on **Exhibit "A"** attached hereto and made a part hereof for all purposes.

Section 1.03 The land transfer outlined in **Section 1.02** above, from EPWater to the City, and any future transfer by the City of any ownership interest in the above-identified parcel, shall be subject to the following additional reservations and exceptions:

a. A reservation of all easements and mineral interests filed and recorded at the time of transfer of the identified property.

b. A reservation for any existing water or sewer lines, mains, appurtenances or infrastructure, or stormwater infrastructure that may exist within the identified property.

c. A reservation for EPWater, its successors and assigns forever, all water in and under, and that may be produced from or attributable to the identified 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 such.

Section 1.04 City agrees to pay the amount of $48,477.00, in accordance with the Joint Resolution between City of El Paso and the Public Service Board, for the transfer of the property. Sun Metro, as an enterprise fund department of the City, will pay this market value amount (in lieu of an appraised value) for the property as requested by Sun Metro, and agreed to by EPWater.

In conjunction with the transfer, City also agrees to regrade the existing pond on the property and relocate, and reconstruct the existing rock wall on the property at City's sole expense. EPWater will have the right to approve of the regrading of the pond and the reconstruction of and relocation of the rock wall.

If the land transferred is not utilized by the City for its intended purpose of providing access to and for the construction of a new driveway and parking lot for the Sun Metro Mass Transit Far East Transfer Center, within three (3) years of the date of this Agreement, the land shall automatically revert back to EPWater's land inventory, with no further action required.

Section 1.05 The Parties acknowledge and agree that EPWater shall not be committed to any additional requirements, obligations or commitments of any kind, including any financial obligation or commitment, to any party to whom the parcel of land may be transferred to or sold to, or to any party that may develop the parcel of land in the future.

Section 1.06 The transfer of the land from EPWater to the City shall be effective on the date of execution of this MOU by both parties.

APPROVED on this _____ day of _____, 2019.

EL PASO WATER UTILITIES - PUBLIC SERVICE BOARD

_____
John E. Balliew, President/ CEO

APPROVED AS TO CONTENT:

_____
Marcela Navarrete, Vice President
Strategic, Financial and Management Services

APPROVED AS TO FORM:

_____
Lee Ann B. Koehler
General Counsel

CITY OF EL PASO, TEXAS

_____
Tomàs Gonzàlez, City Manager

APPROVED AS TO CONTENT:

_____
Ted Marquez
Deputy City Manager Public Works

APPROVED AS TO CONENT:

Jay Banasiak
Director

APPROVED AS TO FORM:

Roberta Brito
Assistant City Attorney

EXHIBIT "A"

MAP OF PARCEL TRANSFERRED

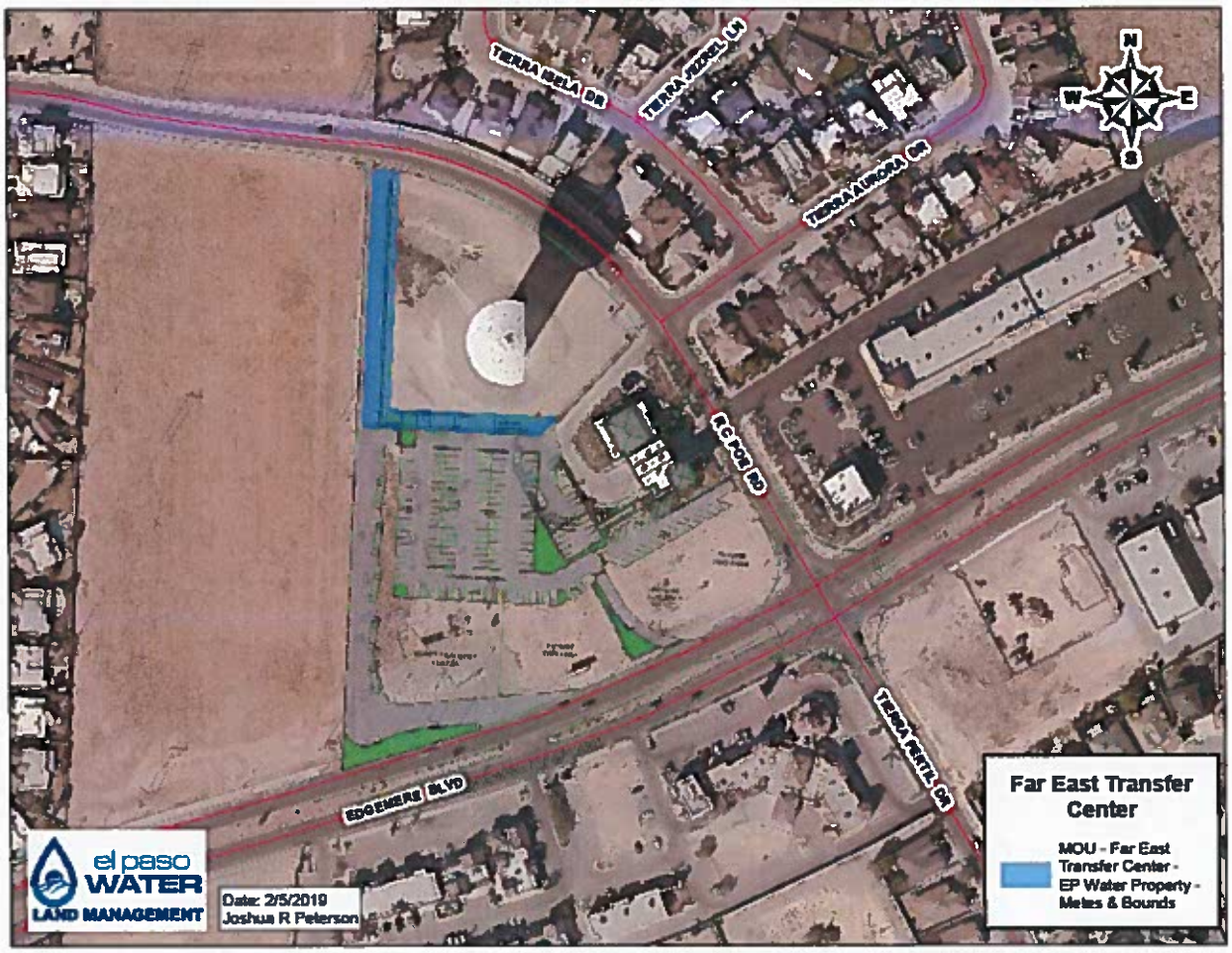

EXHIBIT "A-1"

METES AND BOUNDS DESCRIPTION

PROPERTY DESCRIPTION

PROPOSED ACCESS EASEMENT

Description of a parcel of land being a parcel lying in Lot 2, Block 102, Tierra Del Este Subdivision Unit Twenty Two, City of El Paso, El Paso County, Texas, map of said Tierra Del Este Subdivision Unit Twenty Two recorded in book 78, page 86, Plat Records, El Paso County, Texas and also being a portion of that parcel recorded in book 4742, page 1941, El Paso County Clerks Records, and described as follows.

Commencing for reference at a city monument located at the centerline PC of R.C. Poe Road (64' wide) in front of Lot 1 of said Block 102, said monument located North 33°18'43" West (bearing basis) a distance of 410.92' from a city monument located at the intersection of said R. C. Poe Road and Edgemere Boulevard; Thence, leaving said centerline, South 56°41'17" West a distance of 32.00' to a "V" found on the southwesterly ROW line of said R. C. Poe Road, Thence, with said southwesterly ROW line, along the arc of a curve to the left a distance of 50.84', having a central angle of 05°07'43", a radius of 568.00' and a chord that bears North 35°52'34" West a distance of 50.83' to a "V" chiseled on concrete at the northeasterly corner of said Lot 1; Thence, with the common lot line of said Lots 1 and 2, South 40°27'49" West a distance of 165.14' a point, and being the "Point Of Beginning";

Thence, continuing with said common lot line of said Lots 1 and 2, South 40°27'49" West a distance of 40.42' to a 5/8" rebar with cap stamped "5372" found at an angle point;

Thence, continuing with said common lot line of said Lots 1 and 2, South 89°27'14" West a distance of 255.00' to the common westerly corner of said Lots 1 and 2;

Thence, with the westerly lot line of said Lot 2, North 00°32'46" West a distance of 371.34' to a "V" chiseled on concrete found at the northwest corner of said Lot 2 and lying on said southwesterly ROW line of said R. C. Poe Road;

Thence, with said southwesterly ROW line of said R. C. Poe Road, along the arc of a curve to the right a distance of 41.41', having a central angle of 04°10'38", a radius of 568.00' and a chord that bears South 82°35'41" East a distance of 41.40' to a point;

Thence, with a line 41' east of and parallel with said westerly lot line of said Lot 2, South 00°32'46" East a distance of 334.99' to an angle point;

Thence, with a line 30.5' north of and parallel with said common lot line of Lots 1 and 2, North 89°27'14" East a distance of 240.52' to the "Point Of Beginning" and containing 22,035 sq. ft. or 0.5059 acres.

Based on a field survey performed under my supervision and dated 10/08/2015

John A. Fay, Texas R.P.L.S. 5372 NM PLS 17779

Paso Del Norte Surveying Inc
13998 Bradley Road
El Paso, TX. 79938
915-241-1841
TBPLS FIRM #10001200