

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

**DEPARTMENT:** ENVIRONMENTAL SERVICES

**AGENDA DATE:** January 22, 2019

**CONTACT PERSON:** ELLEN A. SMYTH, P.E., DIRECTOR, ENVIRONMENTAL  
SERVICES  
212-6060

**DISTRICT (S) AFFECTED:** All

**STRATEGIC GOAL:** 8.4 – Improve air quality throughout El Paso

**SUBJECT:** MEMORANDUM OF UNDERSTANDING BETWEEN CITY OF  
EL PASO AND THE PUBLIC SERVICE BOARD

**BACKGROUND / DISCUSSION:**

The City of El Paso's Air Quality Program has operated a non-continuous particulate matter air monitor, located on the roof of Riverside High School, 301 Midway Dr., since the 1980s. Due to recent safety concerns and logistical complications in City staff safely accessing the air monitor, the Air Quality Program received approval from the Texas Commission on Environmental Quality to relocate the monitor to a nearby location.

The new air monitor location will be at an EP Water Well Site (No. 421) located at 7501 Mimosa Rd. The attached MOU outlines the responsibilities of the City and EP Water in developing and maintaining the air monitor portion of the well site.

**PRIOR COUNCIL ACTION:**

N/A

**AMOUNT AND SOURCE OF FUNDING:**

N/A

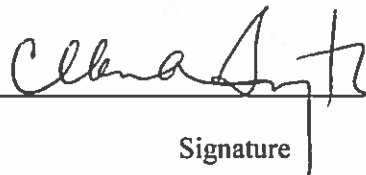
**BOARD / COMMISSION ACTION:**

N/A

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

**DEPARTMENT HEAD:**

Ellen Smyth, P.E.



January 7, 2019

\_\_\_\_\_  
Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

## RESOLUTION

**WHEREAS**, the City of El Paso uses air monitors placed at various air monitoring stations to measure ambient air throughout the City in order to comply with state and federal laws; and

**WHEREAS**, the City desires to relocate the air monitor located atop Riverside High School to a more accessible location; and

**WHEREAS**, El Paso Water Utilities has agreed to allow the City of El Paso to move its Riverside air monitoring station to 7501 Mimosa Rd., El Paso, Texas.

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

**THAT** the El Paso City Council authorizes the City Manager to sign a Memorandum of Understanding between the City of El Paso and El Paso Water Utilities for the relocation of the Riverside air monitoring site to the property located at 7501 Mimosa Rd., El Paso, Texas which provides for the placement and use of an air monitor by the City of El Paso's Environmental Services Department.

**APPROVED** this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

**CITY OF EL PASO, TEXAS**

\_\_\_\_\_  
Dee Margo  
Mayor

**ATTEST:**

\_\_\_\_\_  
Laura D. Prine  
City Clerk

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Ana Schumacher  
Assistant City Attorney

**APPROVED AS TO CONTENT:**

\_\_\_\_\_  
Ellen A. Smyth, P.E.  
Director of Environmental Services

STATE OF TEXAS

COUNTY OF EL PASO

§ MEMORANDUM OF UNDERSTANDING  
§  
§ —Placement of Air Monitor at Well Site  
No. 421

This Memorandum of Understanding ("MOU") is effective this \_\_\_\_ day of \_\_\_\_\_, 2018 and is made and entered by and between the **CITY OF EL PASO TEXAS** ("City"), a home rule municipal corporation, and the **EL PASO WATER UTILITIES – PUBLIC SERVICE BOARD** ("EP Water"), a component unit of the City (hereinafter collectively referred to as the "Parties").

**WHEREAS**, the City, by and through the Environmental Services Department's El Paso Air Quality Program ("AQP"), conducts air pollution control activities and monitors ambient air in the City in order to comply with state and federal laws;

**WHEREAS**, the City is proposing the relocation of its Riverside air monitoring site (AQS#481410038) (hereinafter referred to as the "air monitoring site") due to operator safety concerns and difficulty accessing the site;

**WHEREAS**, the City has proposed the relocation of the Riverside air monitoring site to the EP Water Well Site No. 421, located at 7501 Mimosa Rd. in El Paso County, Texas;

**WHEREAS**, the Texas Commission on Environmental Quality and the Environmental Protection Agency have approved the relocation of the Riverside air monitoring site (AQS#81410038) to 7501 Mimosa Rd.; and

**WHEREAS**, EP Water desires to allow the City to relocate its Riverside air monitor site to EP Water Well Site No. 421.

**NOW THEREFORE**, the Parties agree as follows:

1. **Purpose.** It is the purpose of this Memorandum to make provision for cooperative mutual responsibilities in placing, accessing and managing the City's air monitor at EP Water Well Site No. 421.
2. **Responsibilities of the City.**
  - a. City will place a Tisch 6070V(or similar or equivalent instrument, if replaced) air monitor secured to a steel platform at EP Water Well Site No. 421 as depicted in **Exhibit "A"** attached hereto, upon completion of the monitoring site development.
  - b. City agrees to coordinate with a qualified contractor to install additional fencing surrounding the air monitor; said fencing shall include a separate gated access on the existing perimeter fencing for private access to the air monitor.

- c. City will coordinate with a licensed contractor to direct electrical power from the on-site electric pole to the air monitor, and install an individual electric meter and breaker, at its own cost.
- d. City agrees to be solely responsible for the maintenance of the referenced air monitoring site.

3. **Responsibilities of EP Water.**

- a. EP Water shall grant the City access, management, and use of Well Site No. 421, for the purpose of relocating the City's Riverside air monitoring site to 7501 Mimosa Rd. in El Paso County, Texas.
  - b. In the event the City is unable to access the air monitor through its separate gated access, EP Water shall grant City access through the Well Site No. 421's gate until such time as the City regains its private right of access.
4. **Term.** This Memorandum shall become effective as to each Party when approved and executed by that Party. It shall remain in full force and effect until such time as it is terminated in writing by one or all of the parties.
5. **Validity and Enforceability.** If any current or future legal limitations affect the validity or enforceability of a provision of this Agreement, then the legal limitations are made part of this Memorandum and shall operate to amend this Memorandum to the minimum extent necessary to bring this Memorandum into conformity with the requirements of the limitations, and so modified, this Memorandum shall continue in full force and effect.
6. **Governing Law and Venue.** This Memorandum shall be governed by the laws of the State of Texas. Venue for an action arising under this Agreement shall lie exclusively in El Paso County, Texas.
7. **Severability.** If a provision contained in this Memorandum is held invalid for any reason, the invalidity does not affect other provisions of the Memorandum and can be given effect without the invalid provision, and to this end, the provisions of this Memorandum are severable.

EXECUTED by the parties hereto, each respective entity acting by and through its duly authorized official as required by law.

*[Signatures on the next page]*

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

**CITY OF EL PASO**

\_\_\_\_\_  
Tomás González  
City Manager

**EL PASO WATER UTILITIES  
PUBLIC SERVICE BOARD**

\_\_\_\_\_  
John E. Balliew  
President/CEO

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Ana Schumacher  
Assistant City Attorney

**APPROVED AS TO CONTENT:**

\_\_\_\_\_  
Ellen A. Smyth, P.E.  
Director of Environmental Services

**Approved as to form:**

\_\_\_\_\_  
Lee Ann B. Koehler  
General Counsel

## **EXHIBIT A**



## 7501 Mimosa - Proposed Site



Ellen Smyth, P.E., MPA - Director  
7968 San Paulo | El Paso, Texas 79907 | (915) 212-6000