

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

DEPARTMENT: El Paso Water Utilities Public Service Board (El Paso Water)
Municipal Drainage Utility System (MDUS)

AGENDA DATE: September 17, 2019

CONTACT PERSON NAME AND PHONE NUMBER: EPWU, James Wolff, (915) 594-5511

DISTRICT(S) AFFECTED: 4

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

SUBJECT:

A Resolution of the City Council of the City of El Paso authorizing the El Paso Water Utilities Public Service Board as the El Paso Texas Municipal Drainage Utility System (MDUS) to file or cause to be filed a suit in eminent domain to acquire the property located at 5529 Threadgill Avenue, for the purpose of constructing the Will Ruth Pond Project, a stormwater project located in Northeast El Paso and identified in the Stormwater Master Plan.

BACKGROUND / DISCUSSION:

The Will Ruth Pond Project located in Northeast El Paso was approved by the El Paso Water Utilities Public Service Board in February 2017. The Will Ruth Pond Project is a major stormwater infrastructure project that will improve public safety and mitigate flooding in Northeast El Paso. This project will have the capacity to hold approximately 93 million gallons of flood water collected from Dyer Street and the surrounding area and prevent it from flowing into the neighborhoods downstream of the pond. The project area includes 74 properties. This property located at 5529 Threadgill and known as Los Juguetones Day Care is one of the remaining needed to be acquired for the construction of the pond. The history of the negotiations with the property owner is noted below:

Appraised Value	\$393,354
Property Owner Counter	\$5,010,000
EPWater Counter	\$511,360
Final Offer Letter	\$590,031
No Add'l Counter by Property Owner	

PRIOR COUNCIL ACTION:

On April 16, 2019 the City Council adopted a Resolution authorizing the City Manager or his designee to file or cause to be filed, a suit in eminent domain to acquire property for the purpose of extending Winn Road from the Playa Intercepting Drain to Rio Del Norte Drive as part of the Zaragoza Port-of-Entry, Pan American, Winn Road Build and Improvements Project.

AMOUNT AND SOURCE OF FUNDING:

The cost of the eminent domain action and for the acquisition of the property is to be funded with Municipal Drainage Utility System (MDUS) funds.

BOARD / COMMISSION ACTION:

The El Paso Water Utilities Public Service Board approved a Motion on August 14, 2019 authorizing the President/CEO to seek approval of the City of El Paso to proceed with a suit in eminent domain to acquire the property located at 5529 Threadgill Avenue needed to complete the Will Ruth Pond Project.

RESOLUTION

WHEREAS, on June 19, 2007, by Ordinance Number 016668, the City Council of the City of El Paso, Texas established the El Paso Texas Municipal Drainage Utility System for the management and control of stormwater drainage and infrastructure; and,

WHEREAS, the El Paso City Council, as authorized by State law, vested the complete management and control of the El Paso Texas Municipal Drainage Utility System in the El Paso Water Utilities Public Service Board; and,

WHEREAS, the City has determined that there is a public use and necessity for the proposed construction of the Will Ruth Pond Project located in Northeast El Paso which will alleviate flooding in the surrounding area and remove properties from the floodplain; and

WHEREAS, the City has determined that it is necessary to authorize the acquisition of fee simple title of the subject property through the exercise of eminent domain; and

WHEREAS, the City is registered with the Texas Comptroller as an entity with eminent domain authority;

WHEREAS, El Paso Water Utilities Public Service Board as the El Paso Texas Municipal Drainage Utility System has budgeted monies for the acquisition of the necessary real property needed for the construction of the Will Ruth Pond Project, which includes the property located at 5529 Threadgill Avenue, as further described and attached hereto as Exhibit "A"; and

WHEREAS, pursuant to Chapter 21 of the Texas Property Code, the El Paso Water Utilities Public Service Board as the El Paso Texas Municipal Drainage Utility System has made a bona fide offer and a final bona fide offer to acquire the property from the property owner but has been unable to reach agreement with the owner on the value of the property, or the damages, if any; and

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

That the caption and recitals are factual findings of the City Council and are hereby approved and incorporated in the text of this Resolution in their entirety as if fully restated.

The City Council of the City of El Paso hereby authorizes and directs the El Paso Water Utilities Public Service Board as the El Paso Texas Municipal Drainage Utility System to file, or cause to be filed, a suit in eminent domain to acquire the property located at 5529 Threadgill Avenue, as described and attached hereto as Exhibit "A", for the public purpose of constructing the Will Ruth Pond Project. The City Council finds that the

the public use, and further authorizes taking whatever action may be deemed appropriate to effectuate the necessary acquisition.

APPROVED this _____ day of _____ 2019.

CITY OF EL PASO

Dee Margo
Mayor

ATTEST:

Laura D. Prine, City Clerk

APPROVED AS TO FORM:

Roberta Brito
Roberta Brito
Assistant City Attorney

APPROVED AS TO CONTENT:

Alma De Anda, Utility Land and
Water Rights Manager

APPROVED AS TO FORM:

Lee Ann B. Koehler
General Counsel

Exhibit "A"

Lots 29, 46 and 47, Los Ranchitos Subdivision, an addition to the City of El Paso, El Paso County, Texas, according to the plat thereof on file in Volume 2, Page 4, Real Property Records, El Paso County, Texas