

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

DEPARTMENT: El Paso Municipal Drainage Utility System

AGENDA DATE: July 14, 2009

CONTACT PERSON/PHONE: Edmund G. Archuleta, P. E., President/CEO/(915) 594-5501

DISTRICT(S) AFFECTED: All

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.

A resolution authorizing the President/CEO of the El Paso Municipal Drainage Utility System (MDUS), to submit to the Texas Water Development Board (TWDB) an application for financial assistance through the Clean Water State Revolving Fund (CWSRF) under the American Recovery and Reinvestment Act of 2009 (ARRA) to provide for the purchase of \$12,036,992.00 of City of El Paso Water and Sewer Revenue Bonds to fund certain stormwater projects listed as eligible in the CWSRF Intended Use Plan. This resolution also authorizes the Mayor and City Manager to sign any and all necessary documents to accomplish the application.

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 Federal Government enacted the American Recovery and Reinvestment Act of 2009 (ARRA) to provide for, among other things, investment in infrastructure throughout the United States and the Texas Water Development Board (TWDB) is the administrative agency charged with implementing the ARRA in Texas. The TWDB has established a financial assistance program to assist in the construction of wastewater treatment collection and treatment, nonpoint source pollution control, and estuary management projects in Texas.

Under the ARRA the TWDB is offering 0% loans for eligible projects in Texas and El Paso Municipal Drainage Utility System (MDUS) is the only Texas Utility that has certain eligible projects in the stormwater category to which the full funding amount has been allocated.

By Resolution dated June 30, 2009, the El Paso Water Utilities Public Service Board found that it is in the best interest of its stormwater customers to submit an application to the TWDB for financial assistance to accomplish certain ARRA eligible stormwater projects. The El Paso Water Utilities Public Service Board also authorized the President/CEO to submit the application for the TWDB to purchase \$12,036,992.00 of City of El Paso Water and Sewer Revenue Bonds to fund certain ARRA eligible stormwater projects. The Resolution also requests the City Council to pass all necessary resolutions approving and authorizing the filing of the application with the TWDB for CWSRF funding.

PRIOR COUNCIL ACTION:

Has the Council previously considered this item or a closely related one?

Yes. The City Council passed a Resolution authorizing the El Paso Water Utility President/CEO to submit an application to the Texas Water Development Board for financial assistance through the Clean Water Act State Revolving Fund to provide for the purchase of \$10,000,000.00 of City of El Paso Water and Sewer Revenue Bonds for a phase of the East Side Wastewater Collector System. That Resolution also authorized the Mayor to sign any and all necessary documents to accomplish the application.

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?

This item will be funded through the American Recovery and Reinvestment Act of 2009. No budget transfer is required.

BOARD / COMMISSION ACTION:

Enter appropriate comments or N/A

The El Paso Water Utility Public Service Board acting in its capacity as the managing board of the El Paso Municipal Drainage Utility System passed a Resolution dated June 30, 2009 authorizing the President/CEO to apply to the TWDB for the Clean Water Act State Revolving Fund and requesting the City Council authorize the Mayor and City Manager to sign any and all necessary documents to accomplish the application. (copy of Resolution attached)

*****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:** _____

RESOLUTION

A Resolution authorizing the President/CEO of the El Paso Water Utilities to submit to the Texas Water Development Board an application for financial assistance through the Clean Water State Revolving Fund (CWSRF) under the American Recovery and Reinvestment Act of 2009 (ARRA) to provide for the purchase of \$12,036,992.00 of City of El Paso Texas Municipal Drainage Utility System Revenue Bonds to fund certain stormwater projects listed as eligible in the CWSRF Intended Use Plan.

WHEREAS, the American Recovery and Reinvestment Act of 2009 (“ARRA”), enacted by the United States Congress and signed into law on February 17, 2009, provides for, among other things, investment in infrastructure throughout the United States; and,

WHEREAS, the Texas Water Development Board (the “Board”) is the Texas administrative agency charged with implementing ARRA funding of water projects within the State of Texas; and

WHEREAS, the City Council of the City of El Paso, Texas (the “City”), hereby finds and determines that there is a need to construct improvements and extensions to the City's stormwater facilities, and such capital improvements cannot be reasonably financed without financial assistance from the Board; now, therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO, TEXAS:

SECTION 1: An application is hereby approved and authorized to be filed with the Board seeking financial assistance to finance the costs of constructing improvements and extensions to the City's stormwater facilities in an amount not to exceed \$12,036,992 to provide for the costs of certain stormwater projects listed as eligible projects in the Clean Water State Revolving Fund Intended Use Plan approved by the Board on June 18, 2009.

SECTION 2: The President and Chief Executive Officer of the El Paso Water Utilities (“EPWU”), the Vice President of the EPWU, or the Chief Financial Officer of the EPWU, either one or more of them, shall be and are hereby designated to be the authorized representatives of the City for purposes of furnishing such information and executing such documents as may be required in connection with the preparation and filing of such application for financial assistance and the rules of the Board.

SECTION 3: The following firms and individuals are hereby authorized and directed to aid and assist the City in the preparation and submission of such application and to appear on behalf of and represent the City before any hearing held by the Board on such application, to wit:

Financial Advisors:

George Williford and Jason Hughes
First Southwest Company
325 North St. Paul, Suite 800
Dallas, Texas 75201
(214) 953-4000
gwilliford@firstsw.com
jhughes@firstsw.com

Consulting Engineers:

Brown and Caldwell
Steve Morgan
1200 Golden Key Cir., Suite 430
El Paso, Texas 79925
(915) 545-4400
smorgan@brwnald.com

URS Corp.
Rick French
P.O. Box 201088
Austin, Texas 78720
(512) 419-5123
rick_french@urscorp.com

Moreno Cardenas Inc.
Robert Moreno
2505 E. Missouri Ave., Suite 100
El Paso, Texas 79903
(915) 532-2091
rmoreno@morenocardenas.com

Bond Counsel:

Paul Braden
Fulbright & Jaworski L.L.P.
2200 Ross Ave., Suite 2800
Dallas, Texas 75201
El Paso Phone: (915) 351-6053
pbraden@fulbright.com

SECTION 4: It is officially found, determined and declared that the meeting at which this Resolution is adopted was open to the public and public notice of the time, place and subject matter of the public business to be considered at such meeting, including this Resolution, was given, all as required by Texas Government Code, Chapter 551, as amended.

SECTION 5: This Resolution shall be in force and effect from and after its passage on the date shown below.

SECTION 6: The Mayor and City Manager are hereby authorized to sign any and all documents required to further the application the subject of this Resolution.

PASSED AND ADOPTED, this July 14, 2009.

CITY OF EL PASO, TEXAS

John Cook, Mayor

ATTEST:

Richarda Duffy Momsen, City Clerk

(City Seal)

APPROVED AS TO FORM:

Charlie McNabb, City Attorney



TO: Joyce A. Wilson, City Manager
El Paso, Texas

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

DATE: July 2, 2009

SUBJECT: Request to place Item on City Council Agenda – July 14, 2009

A resolution authorizing the President/CEO of the El Paso Municipal Drainage Utility System (MDUS), to submit to the Texas Water Development Board (TWDB) an application for financial assistance through the Clean Water State Revolving Fund (CWSRF) under the American Recovery and Reinvestment Act of 2009 (ARRA) to provide for the purchase of \$12,036,992.00 of City of El Paso Water and Sewer Revenue Bonds to fund certain stormwater projects listed as eligible in the CWSRF Intended Use Plan. This resolution also authorizes the Mayor and City Manager to sign any and all necessary documents to accomplish the application.
(All Districts) (Contact person: Edmund G. Archuleta, 594-5501)

~~~~~

**RESOLUTION INTRODUCTION AND PASSAGE – City Council Agenda – July 14, 2009**

**Background**

The Federal Government enacted the American Recovery and Reinvestment Act of 2009 (ARRA) to provide for, among other things, investment in infrastructure throughout the United States and the Texas Water Development Board (TWDB) is the administrative agency charged with implementing the ARRA in Texas. The TWDB has established a financial assistance program to assist in the construction of wastewater treatment collection and treatment, nonpoint source pollution control, and estuary management projects in Texas.

Under the ARRA the TWDB is offering 0% loans for eligible projects in Texas and the El Paso Municipal Drainage Utility System (MDUS) is the only Texas Utility that has certain eligible projects in the stormwater category to which the full funding amount has been allocated.

By Resolution dated June 30, 2009, the El Paso Water Utilities Public Service Board found that it is in the best interest of its stormwater customers to submit an application to the TWDB for financial assistance to accomplish certain ARRA eligible stormwater projects. The El Paso Water Utilities Public Service Board also authorized the President/CEO to submit an application for the TWDB to purchase \$12,036,992.00 of City of El Paso Water and Sewer Revenue Bonds to fund certain ARRA eligible stormwater projects. The Resolution also requests the City Council to pass all necessary resolutions approving and authorizing the filing of the application with the TWDB for CWSRF funding.

City Manager Joyce A. Wilson  
Department Memo, July 2, 2009  
Request for Item for City Council Agenda  
Resolution—Introduction and Passage- July 14, 2009  
Page 2

**ACTION REQUESTED**

That the Mayor and City Manager be authorized by the City Council to sign any and all necessary documents to accomplish the application to the TWDB.

**REQUEST TO PLACE ITEM ON THE CITY COUNCIL AGENDA**

Attached is a copy of the Resolution. Upon adoption and approval of the Resolution, it is requested that the City Clerk provide to this office a copy of the fully executed Resolution for the TWDB application.

Please advise this office of the placement of this item on the City Council Agenda and my Secretary will contact the 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](mailto:bandron@epwu.org). I will plan to attend the City Council meeting on Tuesday, July 14, 2009. Thank you for your kind attention to this matter.

Attachments

Cc: The Honorable Mayor John Cook (email)  
City Council Representatives (email)  
Pat Adatao, Deputy City Manager for Building & Planning Services (email)  
Charlie McNabb, City Attorney (email)  
Theresa Cullen, Deputy City Attorney (email)  
Richarda Duffy-Momsen, City Clerk (hard copies & email)  
Nicholas J. Costanzo, Vice President of Strategic, Financial & Management Services (email)  
Marcela Navarrete, Chief Finance Officer, PSB (email)

RESOLUTION

A RESOLUTION AUTHORIZING THE PRESIDENT/CEO TO SUBMIT AN APPLICATION TO THE TEXAS WATER DEVELOPMENT BOARD FOR FINANCIAL ASSISTANCE THROUGH THE CLEAN WATER ACT STATE REVOLVING FUND UNDER THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 TO PURCHASE \$12,036,992 OF CITY OF EL PASO STORMWATER REVENUE BONDS TO FUND CERTAIN ELIGIBLE STORMWATER PROJECTS; AUTHORIZING THE PRESIDENT/CEO TO SEEK THE APPROVAL OF THE CITY COUNCIL OF EL PASO; AND DECLARING AN EFFECTIVE DATE.

\*\*\*\*\*

WHEREAS, the Federal Government enacted the American Recovery and Reinvestment Act of 2009 (ARRA) to provide for, among other things, investment in infrastructure throughout the United States and the Texas Water Development Board (TWDB) is the administrative agency charged with implementing the ARRA in Texas; and,

WHEREAS, the Texas Water Development Board has established a financial assistance program to assist in the construction of wastewater treatment collection and treatment, nonpoint source pollution control, and estuary management projects in Texas; and

WHEREAS, the TWDB, ARRA Program, is offering 0% loans for eligible projects in Texas and El Paso Water Utilities Public Service Board Stormwater Utility is the only Texas Utility that has certain eligible projects in the stormwater category to which the full funding amount has been allocated; and,

WHEREAS, the Public Service Board (PSB) hereby finds and determines that it is in the best interest of its stormwater customers to submit an application to the TWDB for financial assistance to complete these projects.

**NOW, THEREFORE, BE IT RESOLVED by the Public Service Board of the City of El Paso:**

**Section 1.** The findings and recitations set out in the preamble to this Resolution are found to be true and correct and they are hereby formally adopted by the PSB and made a part of this Resolution for all purposes.

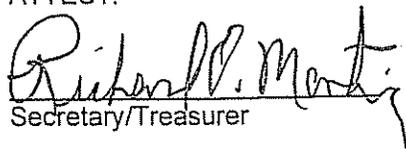
**Section 2.** That the PSB hereby authorizes the President/CEO to submit an application to the TWDB through the Clean Water Act State Revolving Fund (CWSRF) to purchase \$12,036,992 of City of El Paso Stormwater Revenue Bonds to fund certain eligible stormwater projects. The PSB further requests the City Council of the City of El Paso to pass all necessary resolutions, ordinances or documents approving and authorizing the filing of this application with the TWDB.

**Section 3.** That the President/CEO is hereby authorized and directed to take all actions necessary to request financial assistance through the CWSRF to purchase \$12,036,992 of City of El Paso Stormwater Revenue Bonds for certain eligible stormwater projects, and all actions heretofore taken in furtherance of this project are ratified and approved.

**Section 4.** That a copy of this Resolution shall be transmitted to the City Attorney's Office and Texas Water Development Board.

**PASSED, APPROVED AND EFFECTIVE at this Special Meeting of the Public Service Board of the City of El Paso, Texas, the 30th day of June, 2009, at which meeting a quorum was present and held in accordance with the provisions of V.T.C.A. Government Code, Sections 551.001 et. seq.**

ATTEST:

  
Secretary/Treasurer

PUBLIC SERVICE BOARD

  
Ruben E. Guerra, Chair

APPROVED AS TO FORM:

  
Robert D. Andron, General Counsel