



**PUBLIC SERVICE BOARD MEETING
AGENDA ITEM
REGULAR MEETING**

Wednesday, February 09, 2022

SUBJECT

Resolution for Public Service Board (PSB) authorizing President/CEO or Designee to evaluate, select and award certain construction contracts administratively

BACKGROUND

On January 12, 2022, the PSB approved the FY2022-2023 Capital Improvement Program (CIP) budgets for the Water and Sewer Utility and the Drainage Utility. The FY 2022-2023 CIP budgets reflect a significant increase to the number of construction projects to be completed from previous years. In order to efficiently complete the increased number of CIP projects, the proposed resolution would delegate to the President/CEO or Designee the authority to evaluate, select and award construction contracts that are procured by EPWater using the competitive bid or competitive sealed proposal methods, which comply with the law and EPWater policy and that do not exceed the amount of \$6,000,000 per contract award, not inclusive of contract change orders, without further PSB approval. The construction contracts to be selected and awarded are routine, procedural, and non-controversial. The authority for the selection and award of construction contracts that include a recommendation of determination of non-responsiveness or non-responsibility of an apparent low bidder or apparent highest ranked bidder will remain with the PSB. Additionally, the President/CEO will report to the PSB on the progress made and actions taken pursuant to the authority delegated under this resolution. If approved, this resolution will become effective immediately upon its adoption and passage and will apply to FY 2022-2023 CIP construction bids and contracts awarded on or after March 1, 2022, and shall continue in full force and effect until February 28, 2023.

STRATEGIC OBJECTIVES SUPPORTED

Improve Efficiency

EVALUATION PROCESS

N/A

FINANCIAL IMPLICATIONS

N/A

PROPOSED ACTION REQUESTED

Consider and approve a Resolution delegating the authority to the President/CEO or Designee to evaluate, select and award construction contracts for construction projects part of EPWater's Fiscal Year 2022-2023 Capital Improvement Program for the Water and Sewer Utility and the Drainage Utility that are procured using the competitive bidding method or the competitive sealed proposal method, which comply with all applicable laws and EPWater's policy and that do not to exceed the amount of \$6,000,000 per contract award, not inclusive of change orders, without further Public Service Board approval.

SUPPORTING DOCUMENTATION PROVIDED

- Resolution

RESOLUTION

A RESOLUTION OF THE EL PASO WATER UTILITIES PUBLIC SERVICE BOARD AUTHORIZING THE PRESIDENT/CEO OR DESIGNEE TO EVALUATE, SELECT AND AWARD CONSTRUCTION CONTRACTS, FOR CONSTRUCTION PROJECTS THAT ARE PART OF EL PASO WATER'S FY 2022-2023 CAPITAL IMPROVEMENT PROGRAM FOR THE WATER AND SEWER UTILITY AND THE DRAINAGE UTILITY, THAT ARE PROCURED USING THE COMPETITIVE BIDDING METHOD OR THE COMPETITIVE SEALED PROPOSAL METHOD, WHICH COMPLY WITH ALL APPLICABLE LAWS AND EPWATER POLICY AND THAT DO NOT TO EXCEED THE AMOUNT OF \$6,000,000 PER CONTRACT AWARD, NOT INCLUSIVE OF CONTRACT CHANGE ORDERS, WITHOUT FURTHER PUBLIC SERVICE BOARD APPROVAL.

WHEREAS, on May 22, 1952, the City of El Paso ("City"), a Texas political subdivision of the state of Texas, adopted Ordinance No. 752, for the purpose of creating the Public Service Board ("PSB"), a board of trustees vested with complete authority and control of the management and operation of the El Paso water and wastewater system, including all its infrastructure and land assets; and

WHEREAS, on June 19, 2007, the City adopted Ordinance No. 16668 for the purpose of establishing a municipal drainage utility system and vested in the PSB with complete authority and control of the management and operation of the municipal drainage utility system, including all of its infrastructure and land assets, in addition to the El Paso water and wastewater system; and

WHEREAS, the El Paso Water Utilities-Public Service Board ("EPWater") is a component unit of the City, that as part of the complete authority and control of the management and operation of the water, wastewater and drainage utility systems (together referred to as "System") has the authority to award EPWater public works contracts on behalf of the City of El Paso; and

WHEREAS, EPWater utilizes the contracting and delivery methods of Chapter 2269 of the Texas Government Code, including competitive bidding, competitive sealed proposal, and alternative project delivery methods for construction projects; and

WHEREAS, the Public Service Board previously delegated to the President/CEO authority to enter into contracts that are \$50,000 or less a year or an aggregate of \$100,000 on a multiyear contract; and

WHEREAS, the selection and award of all competitive bids for construction projects above \$50,000 are traditionally considered and awarded by the Public Service Board; and

WHEREAS, in accordance with Section 2269.053 of the Texas Government Code, the governing body may delegate its authority under Chapter 2269 of the Texas Government Code regarding an action authorized or required by Chapter 2269 of the Texas Government Code to a designated person; and

WHEREAS, on January 12, 2022, as part of the Public Service Board’s approval of EPWater’s Fiscal Year (“FY”) 2022-2023 budget, the Public Service Board approved the FY 2022-2023 Capital Improvement Program for the Water and Sewer Utility and the Drainage Utility (“FY 2022-2023 CIP”), which reflects a significant increase to the number of construction projects to be completed from previous years; and

WHEREAS, in order to efficiently complete the FY 2022-2023 CIP, the Public Service Board desires to delegate to the President/CEO or Designee the authority to evaluate, select and award construction contracts that are procured by EPWater using the competitive bid or competitive sealed proposal methods, which comply with the law and EPWater policy and that do not to exceed the amount of \$6,000,000 per contract, not inclusive of contract change orders, without further Public Service Board approval.

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

Section 1. That the findings and recitations set out in the preamble to this Resolution are found to be true and correct and are hereby adopted by the Public Service Board and made a part of this Resolution for all purposes.

Section 2. That the Public Service Board delegates to the President/CEO or Designee, the authority to evaluate, select and award construction contracts for construction projects part of EPWater’s FY 2022-2023 CIP that are procured using the competitive bidding method or the competitive sealed proposal method, which comply with all applicable laws and EPWater policy and that do not to exceed the amount of \$6,000,000 per contract award, not inclusive of change orders, without further Public Service Board approval.

Section 3. That, pursuant to this Resolution, the President/CEO or designee is authorized to sign contracts and any related document necessary to enter into the construction contract. The authority granted herein also includes the authority to reject bids and terminate contracts as permitted under the contract.

Section 4. That the President/CEO continues to be authorized to approve Contract Change Orders provided that the amount of the change order does not exceed \$100,000; the cumulative amount of all change orders for the contract does not exceed 25% of the original contract price; and the change order is due to changes in plans or specifications, or a decrease or increase in the quantity of work to be performed or of materials, equipment or supplies to be furnished.

Section 5. That authority for the selection and award of construction contracts that require determination of non-responsiveness or non-responsibility of an apparent low bidder or apparent highest ranked bidder will remain with the Public Service Board.

Section 6. The President/CEO will report to the El Paso Water Utilities Public Service

Board on the progress made and actions taken pursuant to the authority delegated under this Resolution.

Section 7. This Resolution and its authorization shall continue in full force and effect until February 28, 2023.

Section 8. This Resolution shall become effective immediately upon its adoption and passage and shall apply to FY 2022-2023 CIP construction bids and contracts awarded on or after March 1, 2022.

PASSED AND APPROVED at the regular meeting of the El Paso Water Utilities Public Service Board of the City of El Paso, Texas, this 9th day of February 2022, at which meeting a quorum was present and which was held in accordance with the provisions of V.T.C.A. Government Code, Sections 551.001, et. Seq.

**EL PASO WATER UTILITIES
PUBLIC SERVICE BOARD**

Kristina Mena, Chair

ATTEST:

Bryan Morris, Secretary/Treasurer

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

Daniel Ortiz, General Counsel

John E. Balliew, CEO/President