# PUBLIC SERVICE BOARD MEETING
# AGENDA ITEM
# REGULAR MEETING

## Wednesday, February 12, 2025

## SUBJECT

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

## BACKGROUND

On January 8, 2025, the PSB approved the FY2025-2026 Capital Improvement Program (CIP) budgets for the Water and Sewer Utility and the Municipal Drainage Utility. As in the previous fiscal year, the FY25-26 CIP budgets reflect a series of projects that are each estimated to be under $6 million. Staff requests the approval of a resolution delegating authority to the President/CEO or Designee to evaluate, select, and award construction contracts certain construction contracts that do not exceed $6 million dollars in order to efficiently complete the number of CIP projects for FY25-26.

### PRIOR PSB ACTION

- The PSB approved a resolution on February 9, 2022, February 8, 2023, and February 14, 2024, delegating the President/CEO or Designee the authority to evaluate, select, and award construction contracts that were procured using the competitive bidding method or the competitive sealed proposal method that did not exceed $6,000,000 in contract value.

## UTILITY KPI ALIGNMENT

Infrastructure Performance

## EVALUATION PROCESS

The resolution would continue 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 all applicable laws 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 evaluated, selected, and awarded are routine, procedural, and non-controversial. The authority for evaluating, selecting and awarding construction contracts that include a recommendation to determine the non-responsiveness or non-responsibility of an apparent low bidder or highest-ranked bidder will remain with the PSB. Additionally, the President/CEO or Designee 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. It will apply to FY25-26 CIP construction bids and contracts awarded after March 1, 2025, and shall continue in full force and effect until February 28, 2026.

## FINANCIAL IMPLICATIONS

N/A

## PROPOSED ACTION REQUESTED

Consider and adopt a Resolution of the El Paso Water Utilities Public Service Board delegating the authority to the President/CEO or Designee to evaluate, select and award construction contracts for construction projects that are part of EPWater's FY25-26 Capital Improvement Program for the Water and Sewer Utility and the Municipal 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 change orders, without further Public Service Board approval; this delegation of authority also includes the rejection of bids and termination of awarded contracts.

## 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 2025-2026 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 PSB 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 PSB; 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 8, 2025, as part of the PSB's approval of EPWater's Fiscal Year ("FY") 2025-2026 budget, the PSB approved the FY 2025-2026 Capital Improvement Program for the Water and Sewer Utility, ("FY 2025-2026 CIP"), which reflects a significant amount of construction projects to be completed; and

**WHEREAS,** on January 8, 2025, as part of the PSB's approval of EPWater's Fiscal Year ("FY") 2025-2026 budget for the Drainage Utility, the PSB approved the FY 2025-2026 Capital Improvement Program for the Drainage Utility ("FY 2025-2026 CIP"), which reflects a significant amount of construction projects to be completed; and

**WHEREAS,** in order to efficiently complete the FY 2025-2026 CIPs for the Water and Sewer Utility and the Drainage Utility, the PSB 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 PSB 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 2025-2026 CIP 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 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 contracts. The authority granted herein also includes the authority to reject bids and terminate contracts as permitted under the contracts.

**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, 2026.

**Section 8.** This Resolution shall become effective immediately upon its adoption and passage and shall apply to FY 2025-2026 CIP construction bids and contracts awarded on or after March 1, 2025.

**PASSED AND APPROVED** at the regular meeting of the El Paso Water Utilities Public Service Board of the City of El Paso, Texas, this 12th day of February 2025, 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**

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Bryan Morris, Chair

**ATTEST:**

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Stefanie Block Uribarri, Secretary/Treasurer

**APPROVED AS TO FORM:**

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Daniel Ortiz, General Counsel

**APPROVED AS TO CONTENT:**

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John E. Balliew, CEO/President