



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

Wednesday, July 13, 2022

SUBJECT

2022 Drought Resolution

BACKGROUND

In recent years, water deliveries from the Rio Grande have been highly variable because of the record drought conditions in the region. Water delivered from the Rio Grande in 2022 is considered a limited allocation. The scheduled releases from the reservoir for the remainder of this irrigation season are expected to reduce the volume of water held in storage to 4.75% of the reservoir capacity (95,000 acre-feet). By the end of the current irrigation season, the reservoir storage is estimated to be as low as in previous drought years (2012-2014, 2018, and 2020-2021). Limited reservoir storage indicates that EPWater will receive a limited annual allocation of surface water in 2023, greatly reducing the irrigation season in El Paso County.

As a result of this drought condition, the Utility will need to produce more groundwater to meet peak summer demands. The Texas Local Government Code Section 252.022(a)(2) provides an exemption to the competitive bidding statutes for procurements made to preserve and protect the health and safety of residents. An approved drought resolution will allow for expedited procurement of contracted consultant and construction services under this exemption to the general bidding statutes related to drought relief projects, including but not limited to drilling and equipping new wells, reconditioning existing wells, optimizing reclaimed and surface water production, purchase and installation of pumps and optimizing production of the Kay Bailey Hutchison Desalination Plant. An approved drought resolution will allow for earlier starting and completion dates of drought relief projects. The goal of this resolution is to allow drought relief projects to be completed before the peak demands of next summer by reducing procurement durations.

STRATEGIC OBJECTIVES SUPPORTED

Improve Land & Water Management

EVALUATION PROCESS

Based on the projected potable water availability issues for 2023, it is advisable to position the Utility to exercise an exemption to the State's bidding statutes under Texas Local Government Code Section 252.022(a)(2), exempting procurements made to preserve and protect the health and safety of the customers of EPWater from adherence to competitive bidding statutes.

FINANCIAL IMPLICATIONS

N/A

PROPOSED ACTION REQUESTED

Consider and adopt a Drought Resolution accepting the report of the President/CEO regarding the expected limited Rio Grande water deliveries for 2023 and authorize the President/CEO or designee to contract and purchase without further action of the Public Service Board, pursuant to any and all applicable exemptions to the bid statute under Texas Local Government Code Section 252.022(a), including Texas Local Government Code Section 252.022(a)(2), an exemption to the competitive bidding requirements, for procurements necessary to preserve and protect the health and safety of the customers of EPWater.

SUPPORTING DOCUMENTATION PROVIDED

- Resolution

RESOLUTION

A RESOLUTION OF THE EL PASO WATER UTILITIES PUBLIC SERVICE BOARD ACCEPTING A REPORT BY THE PRESIDENT/CEO REGARDING RIO GRANDE WATER DELIVERIES EXPECTED IN 2023 AND AUTHORIZING THE PRESIDENT/CEO OR DESIGNEE TO CONTRACT AND PURCHASE WITHOUT FURTHER ACTION OF THE PSB BOARD, PURSUANT TO ALLOWABLE EXEMPTIONS TO THE BID STATUTE UNDER SECTION 252.022(a) OF THE TEXAS LOCAL GOVERNMENT CODE, INCLUDING TEXAS LOCAL GOVERNMENT CODE SECTION 252.022(a)(2) PROCUREMENTS MADE TO PRESERVE AND PROTECT THE PUBLIC HEALTH AND SAFETY OF THE CUSTOMERS OF THE EL PASO WATER UTILITIES.

WHEREAS, the droughts of 2012-2014, 2018, and 2020-2021 marked new historical droughts for the State of Texas, since the 1950s Drought of Record, and the El Paso region and the City of El Paso, Texas itself experienced greatly reduced surface water availability from the Federal Rio Grande Reclamation Project (Rio Grande Project) during these periods; and

WHEREAS, the El Paso Water Utilities Public Service Board (El Paso Water Utilities) adopted a Drought Resolution in previous years (2012-2014, 2018, and 2020-2021) authorizing contracting and purchasing under applicable exemptions to the bid statute under Texas Local Government Code, Section 252.022(a), which includes Section 252.022(a)(2), due to drought conditions existing during those years; and

WHEREAS, due to the drought conditions as noted in the Management Report provided on July 13th, 2022 to the El Paso Water Utilities by the President /CEO, an urgent public necessity exists to take action for certain procurements in order to assure adequate drinking water supplies for its customers for the 2022 irrigation watering season; and

WHEREAS, due to the continuing low storage volumes at the Rio Grande Project Elephant Butte Dam, similar to the storage levels of the Droughts of 2012-2014, 2018, and 2020-2021 there is a strong likelihood and probability that very limited surface water allocations may be available to Rio Grande Project users in 2023, which includes El Paso County Water Improvement District Number 1 (District #1); and

WHEREAS, El Paso Water Utilities obtains surface water from the Rio Grande in accordance with a series of contracts with EPCWID#1, the U.S, Bureau of Reclamation, and the Lower Valley Water District; and

WHEREAS, the El Paso Water Utilities finds that an urgent public necessity exists to take action for certain drinking water facilities purchases and contracts to preserve and protect the public health and safety of the El Paso Water Utilities customers during 2023.

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 (PSB Board) and made a part of this Resolution for all purposes.

Section 2. That, pursuant to this Resolution, the President/CEO or designee is hereby

authorized to take such action and make such procurements related to drought relief, both in facilities and contracts, to preserve and protect the health and safety of the customers and ratepayers of the El Paso Water Utilities, without further PSB Board action, so as to assure adequate drinking water supplies for 2023. The President/CEO is directed to take whatever action in his judgement is necessary, to include, but not by way of limitation, drilling additional water supply wells, reconditioning existing water supply wells, constructing new water transmission lines and mains and making full use of the Kay Bailey Hutchison Desalination Plant. Because of the drought situation, the President/CEO or designee is further authorized to enter into contracts and make purchases in accordance with the exemption to the State competitive bidding statutes as allowed under Texas Local Government Code Section 252.022(a), including Texas Local Government Code Sections 252.022(a)(2), 252.022(a)(4) and 252.022(a)(7).

Section 3. That, pursuant to this Resolution, the President/CEO or designee is authorized to enter into contracts for professional engineering services, without further PSB Board action, with the most qualified professional service provider pursuant to Chapter 2254 Texas Government Code, without a need to follow the Architect and Engineer Selection Policy procedures.

Section 4. This Resolution and its authorization shall continue in full force and effect until amended or revoked by the El Paso Water Utilities Public Service Board, based on a determination that the El Paso region is no longer under significant drought conditions. Any and all other available actions, to include implementation of the El Paso Water Utilities Drought and Emergency Management Response Plan are hereby authorized.

Section 5. The President/CEO will report to the El Paso Water Utilities Public Service Board periodically on the progress made and actions taken.

Section 6. This Resolution shall become effective immediately upon its adoption and passage. A copy of this Resolution shall be forwarded to the Mayor of the City of El Paso, Texas upon its passage.

PASSED AND APPROVED at the regular meeting of the El Paso Water Utilities Public Service Board of the City of El Paso, Texas, this 13th day of July, 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

Scott Reinert, Water Resources Manager