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El Paso County Agenda Item Details

Item Title: Planning & Development - Lower Valley Water District - Amendment #2 to the interlocal and subrecipient agreement

Submitted By: Michael McElroy, Director

Department: Planning and Development

Department Phone Number: 915-273-3330

Subject: Approve and authorize the County Judge to execute Amendment 2 to the Interlocal and Subrecipient Agreement with the Lower Valley Water District (LVWD) for the construction of first-time water and wastewater systems in Wildhorse, Hacienda Real, Athena West, Angel Parks, and Panorama Village. This amendment ensures alignment with the correct ARPA performance period while maintaining no impact on the budget. (Contract No. 2025-0196)

Background: On October 25, 2021, the Commissioners Court approved the County's American Rescue Plan Act (ARPA) Portfolio, strategically allocating an anticipated \$163 million in federal funding. As part of this initiative, \$35 million was earmarked to support twelve (12) colonias in gaining first-time access to essential water and wastewater services.

The Interlocal Agreement with the Lower Valley Water District (LVWD) defines the roles and responsibilities of all participating entities in accordance with the U.S. Department of the Treasury's Coronavirus State and Local Fiscal Recovery Funds (CSLFRF). Under this agreement, LVWD is responsible for the procurement, development, operation, and long-term maintenance of a new water and sewer system within the Lower Valley service area of El Paso County, Texas, as outlined in the Preliminary Engineering Report for El Paso County, dated March 18, 2022.

Amendment #2 to the Interlocal and Subrecipient Agreement with LVWD (2022-0799) introduces a key revision to Section 3, ensuring alignment with the correct ARPA performance period, which extends through December 31, 2026. This amendment

also reinforces compliance with federal funding requirements by clarifying that all ARPA funded activities—including construction, procurement, and associated expenditures—must be completed within this timeframe.

This project is expected to benefit approximately 2,063 residents across 594 households, providing them with first-time access to reliable water and wastewater infrastructure. Upon completion, ownership and long-term management of the system will transition to the Lower Valley Water District, ensuring sustainable operation and ongoing service to the community.

Contract Number: 2025-0196
Contract Term Start: 9/25/2022
Contract Term End: 12/30/2026
County Attorney Opinion Number:

Fiscal Impact:

Fiscal Impact Historical
\$21,748,097

Fiscal Impact Projected
None

Long Account Number: Amount:

Long Account Number: SG-ARPLAN21-OPERATING EXP COSG-7281-0002021-431-50-11000-0001-00000-600000-GARPLAN21-600000 -703000 -703005 Amount: \$0.00

Budget or Unbudgeted Match:

Recommendation:

Approve and authorize the County Judge to execute Amendment #2 to the Interlocal and Subrecipient Agreement with the Lower Valley Water District (LVWD) for the construction of first-time water and wastewater systems in Wildhorse, Hacienda Real, Athena West, Angel Parks, and Panorama Village. This amendment ensures alignment with the correct ARPA performance period while maintaining no impact on the budget. (Contract No. 2025-0196)

Prior Action:

4/29/2024. Item 4-R. Approve and authorize the County Judge to sign the First Amendment to the Interlocal Agreement with the Lower Valley Water District (LVWD) for construction of first-time water and or wastewater systems in the Wildhorse and Hacienda Real, Athena West, Angel Parks, and Panorama Village in the amount of \$4,050,000. Funding is available in SG-ARPLAN21-OPERATING EXP. (Contract No. 2024-0302)

3/18/2024. Item 12. Discuss and take appropriate action regarding the implementation of the El Paso County American Rescue Plan Act Coronavirus State & Local Fiscal Recovery Funds Portfolio.

9/26/2022. Item 11. (ARP Project No. 1010) Approve and authorize the County Judge to sign the Interlocal and Subrecipient Agreement for the Provision of First Time Water and Wastewater Services with the Lower Valley Water District (LVWD) for construction of first-time water and or wastewater systems in the Wildhorse, Hacienda Real, Athena West, Angel Parks and Panorama Village 1&2 in the amount of \$17,698,097. Funding is available in GARPLAN21. (Contract No. 2022-0799)

Strategic Plan:

Goal:

4. Upgrade Infrastructure

Objective:

4.1 Build infrastructure, including parks, to meet the needs of the community

Strategic Plan Information:

**Estimated Time Needed
For This Item:**

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STATE OF TEXAS)
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COUNTY OF EL PASO)

SECOND AMENDMENT TO INTERLOCAL
AGREEMENT (“SECOND AMENDMENT”)

WHEREAS, on the 26th day of September 2022, the Lower Valley Water District (“LVWD” or “Subrecipient”) and the County of El Paso (“County”) entered into an Interlocal and Subrecipient Agreement for the Provision of First-Time Water and Wastewater Services, as previously amended on July 2, 2024 (collectively, the “Agreement”); and

WHEREAS, pursuant to the Agreement and in accordance with the Texas Interlocal Cooperation Act, Texas Government Code Chapter 791, the Parties agreed to collaborate on the procurement, construction, and operation of first-time water and wastewater services in several communities and Colonias located in northwest El Paso County, as well as in communities in east El Paso County; and

WHEREAS, under the Agreement, LVWD agreed to manage the procurement of construction, oversee the construction project, and incorporate the newly constructed water and wastewater system(s) into the LVWD system upon completion, ensuring the provision of first-time water and wastewater services within the County of El Paso; and

WHEREAS, pursuant to specifications outlined in the Final Rule, state and local funding allocated in the American Rescue Plan Act (“ARPA”) must be obligated by December 31, 2024 and fully expended by December 31, 2026, and spending must be used for costs incurred on or after March 3, 2021; and

WHEREAS, the County agreed to provide LVWD with funding for the project (“Program Funds”) on a reimbursement basis; and

WHEREAS, the Parties now wish to enter into this Second Amendment to modify and clarify the Agreement’s term and period of performance.

NOW, THEREFORE, in consideration of the mutual covenants set forth herein, the Parties agree to amend and supersede the Agreement as follows:

1. Remove SECTION 3 – TERM of the Agreement in its entirety and wholly replace it with:

“SECTION 3 - PERIOD OF PERFORMANCE.

This Agreement will commence on the date the last Party executed it and will end no later than December 31, 2026 (the "Term"). Under the ARPA, all funds allocated under this Agreement must be used for costs incurred on or after March 3, 2021. Further, funds must be "obligated" by December 31, 2024, and "expended" no later than December 31, 2026. If LVWD determines that it cannot "obligate" or "expend" funds prior to these deadlines, it will promptly notify the County, so that the Parties may negotiate appropriate changes in the

project budget and/or the project scope of work so that all obligations and expenditures are made by the relevant deadlines. In no event will reimbursable work under this Agreement continue after December 31, 2026. In addition, the Parties shall work together to ensure that reimbursement requests for expenditures are received by the County with enough lead time for the County to make reimbursements no later than December 31, 2026.

Funds not expended by December 31, 2026, will not be reimbursed by the County, and such funds will be returned to the Department of the Treasury by the County as required by relevant regulations.”

2. To the extent that any provisions in the main body of the Agreement conflict with the provisions of this Second Amendment, this Second Amendment shall control. Except as herein amended, all other terms and conditions of the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties execute this Second Amendment on the 10th day of March, 2025.

Lower Valley Water District

The County of El Paso, Texas

Gerald Grijalva, General Manager
Lower Valley Water District

Ricardo Samaniego, County Judge
El Paso County, Texas

APPROVED AS TO FORM:

APPROVED AS TO FORM:

Steve Blanco
Counsel for LVWD

Diana Shearer
Assistant County Attorney