
Meeting Date: September 18, 2024
Staff Contact: Marta Ortiz, Chief Financial Officer

TITLE: R-24-18 – Amendment to the Approved Capital Implementation Program of the Albuquerque Bernalillo County Water Utility Authority for the Fiscal Year Ending June 30, 2025

ACTION: Introduction and Immediate Action Requested

SUMMARY:

The Albuquerque Bernalillo County Water Utility Authority (Water Authority) is a subrecipient of a portion of Bernalillo County's American Rescue Plan Act (ARPA) Recovery Funds. Pursuant to an MOU between the County and the Water Authority, the Water Authority was sub awarded ARPA funds in an amount not to exceed \$63,867,597.61 to fund, among other things, water, and sewer improvements for the Carnuel Sewage Collection System project.

Bernalillo County approved the Fifth Amendment to the MOU to reallocate the surplus of funding in the amount of four hundred and fifty thousand dollars (\$450,000) from the I-21 Carnuel Water System Expansion project. This MOU will also serve to subaward an additional five hundred and seventy-seven thousand nine hundred thirty-eight dollars and sixty-one cents (\$577,938.61) in ARPA funds to the Water Authority to fulfill the scope of work related to the MDC improvements. This additional funding brings the new sub award total under the MOU to an amount not to exceed \$63,867,597.61.

The proposed amendment is outlined below:

Carnuel Sewage Collection System – The amendment provides additional ARPA funding for the design, easement/right-of-way acquisition, construction, and engineering services during construction of Phase 1 which will include installation of a series of low-pressure force mains within the Village of Carnuel.

FISCAL IMPACT:

The attached resolution reflects an expense and revenue budget amendment to provide an additional \$577,938.61 in ARPA funding. The Executive Director is authorized to negotiate and enter into subsequent agreements and amendments with Bernalillo County regarding ARPA funding and take any action necessary to carry out the directives of this resolution.

Staff recommends approval to amend the FY25 CIP Budget.

**ALBUQUERQUE BERNALILLO COUNTY
WATER UTILITY AUTHORITY**

BILL NO. R-24-18

1 RESOLUTION
2 AMENDMENT TO THE APPROVED CAPITAL IMPLEMENTATION PROGRAM OF
3 THE ALBUQUERQUE BERNALILLO COUNTY WATER UTILITY AUTHORITY FOR
4 THE FISCAL YEAR ENDING JUNE 30, 2025

5 WHEREAS, the Capital Implementation Program is governed by the requirements
6 established under Section 2-1-8, 2006, which provides for amendments to the approved
7 program; and

8 WHEREAS, appropriations for the Fiscal Year ending June 30, 2025 that were
9 previously approved under R-24-10 and R-24-11 require an amendment to add funding
10 utilizing American Rescue Plan Act (ARPA) award funding under a subrecipient
11 agreement with Bernalillo County; and

12 WHEREAS, the Bernalillo County approved the Fifth Amendment to the
13 Memorandum of Understanding that adjusts the total ARPA subaward to the Water
14 Authority to sixty-three million eight hundred sixty-seven thousand five hundred ninety-
15 seven dollars and sixty-one cents (\$63,867,597.61); and

16 WHEREAS, pursuant to the Fifth Amendment, Bernalillo County is dedicating the
17 surplus of funding in the amount of four hundred and fifty thousand dollars (\$450,000)
18 from the I-21 Carnuel Water System Expansion project be allowed to be used by the
19 Subrecipient under this Amendment; and

20 WHEREAS, pursuant to the Fifth Amendment, Bernalillo County is dedicating
21 additional ARPA funding in the amount of five hundred and seventy-seven thousand nine
22 hundred thirty-eight dollars and sixty-one cents (\$577,938.61) which is being appropriated
23 by this resolution for Carnuel Sewage Collection System.

24 BE IT RESOLVED BY THE WATER AUTHORITY:

25 Section 1. That the adjustments for the Bernalillo County ARPA projects as stated
26 below are hereby made.

27	ARPA Carnuel Water System Expansion (Expense)	(450,000.00)
28	ARPA Carnuel Sewage Collection System (Expense)	450,000.00

[+Bracketed Material+] - New
[-Bracketed Material-] - Deletion

1	ARPA Carnuel Sewage Collection System (Expense)	577,938.61
2	ARPA Grants Federal Pass-through (Revenue)	577,938.61

3 Section 2. That the Executive Director is authorized to negotiate and enter into
4 subsequent agreements and amendments with Bernalillo County regarding ARPA
5 funding and to take any other action necessary to carry out the directives of this resolution.

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FIFTH AMENDMENT TO

MEMORANDUM OF UNDERSTANDING BETWEEN THE ALBUQUERQUE BERNALILLO COUNTY WATER UTILITY AUTHORITY AND BERNALILLO COUNTY REGARDING THE SUBAWARD OF THE AMERICAN RESCUE PLAN ACT RECOVERY FUNDS

THIS Fifth Amendment to Memorandum of Understanding Between the Albuquerque Bernalillo County Water Utility Authority Regarding the Subaward of the American Rescue Plan Act Recovery Funds (hereinafter referred to as “the MOU Amendment”) is made and entered into by and between Bernalillo County, New Mexico, a New Mexico County and political subdivision (hereinafter referred to as “the County”) and **the Albuquerque Bernalillo County Water Utility Authority**, a political subdivision of the State of New Mexico (hereinafter referred to as “the Subrecipient” and together with the County, “Parties” or “Party”), effective as of the date of the last signatory hereto.

WHEREAS, the County applied for and received federal funds to be allocated in accordance with the American Rescue Plan Act (“ARPA Award”);

WHEREAS, on September 14, 2021, the County and the Subrecipient entered into an agreement titled “Memorandum of Understanding Between the Albuquerque Bernalillo County Water Utility Authority Regarding the Subaward of the American Rescue Plan Act Recovery Funds”, CCN 2021-0872 (“Original Agreement”), whereby the Subrecipient agreed to receive a portion of the ARPA Award allocated to the County;

WHEREAS, through the Original Agreement, the County and the Subrecipient identified and presented seven (7) proposed projects (“Projects”), as listed in Appendix A, to the Commission during work sessions held on August 19, 2021, and August 23, 2023;

WHEREAS, through the Original Agreement, the County engaged the Subrecipient to assist the County in utilizing the ARPA Award funds by committing funding not to exceed fifty-three million eight hundred sixteen thousand five hundred seventy-three dollars (\$53,816,573.00) for a variety of projects to be completed by the Subrecipient;

WHEREAS, the County and Subrecipient entered into a 1st Amendment of the Original Agreement, CCN 2022-0906, hereinafter referred to as the “1st Amendment”, and by reference made a part hereof, whereby the Subrecipient agreed to continue to assist the County in utilizing ARPA Award funds;

WHEREAS, the County and Subrecipient entered into a 2nd Amendment of the Original Agreement, CCN 2022-0909, hereinafter referred to as the “2nd Amendment”, and by reference made a part hereof, whereby the Subrecipient agreed to continue to assist the County in utilizing ARPA Award funds;

WHEREAS, the County and Subrecipient entered into a 3rd Amendment of the Original Agreement, CCN 2023-0640, hereinafter referred to as the “3rd Amendment”, and by reference made a part hereof, whereby the Subrecipient agreed to continue to assist the County in utilizing ARPA Award funds;

WHEREAS, the County and Subrecipient entered into a 4th Amendment of the Original Agreement, CCN 2024-0182, hereinafter referred to as the "4th Amendment", and by reference made a part hereof, whereby the Subrecipient agreed to continue to assist the County in utilizing ARPA Award funds;

WHEREAS, the Subrecipient has determined that additional funding is necessary to enable the continued scope of work outlined in CCN 2022-0040, for the I-6 Canuel Sewage Collection System project, and has requested the surplus of funding in the amount of (\$450,000) from the I-21 Carnuel Water System Expansion project be allowed to be used by the Subrecipient under this MOU Amendment to the Original Agreement and will amend the current subrecipient agreement; and

WHEREAS, the Subrecipient has determined that additional funding is necessary to enable the continued scope of work outlined in CCN 2022-0040, for the I-6 Carnuel Sewage Collection System project. The County has made an additional five hundred seventy-seven thousand nine hundred thirty-eight dollars and sixty-one cents (\$577,938.61) of ARPA funds available for use by the Subrecipient under this MOU Amendment to the Original Agreement and will amend the current subrecipient agreement; and

WHEREAS, the County intends through this MOU Amendment that the total Award to the Subrecipient is sixty-three million eight hundred sixty seven thousand five hundred ninety seven dollars and sixty-one cents (\$63,867,597.61) for use by the Subrecipient in accordance with requirements imposed by Federal statutes, regulations, and the terms and conditions of the County's ARPA Award.

NOW, THEREFORE, it is agreed between the Parties hereto that the Original Agreement shall be amended as follows:

1. Under TERMS AND CONDITIONS, Section A. Use of Funds, item number 2 of the Original Agreement is amended to read as follows:

“The Subrecipient may only carry out the activities described in this agreement as listed in Appendix A on behalf of the County in accordance with the “ABCWUA Subrecipient Requirements for ARPA Funds” (Appendix B). The list of projects in Appendix A are estimates based on current known factors however, the amounts are subject to change as a result of change orders.”

2. Under TERMS AND CONDITIONS, Section D. Payment and Terms, item number 5 of the Original Agreement is amended to read as follows:

“It is expressly agreed and understood that the total amount to be paid by the County under this agreement shall not exceed \$63,867,597.61.”

3. Under TERMS AND CONDITIONS, Section D. Payment and Terms, item number 6 of the Original Agreement is deleted in its entirety and replaced to read as follows:

“ The County requires the Subrecipient to inform the County of any ARPA funds obligated as of the December 31, 2024, obligation deadline, but which are unspent after the deadline. The County may reclassify such excess funds for other projects eligible under ARPA rules and identified in this MOU.”

4. APPENDIX A is replaced with the AMENDED APPENDIX A attached.

5. Terms and Conditions

Except as herein expressly amended, the terms and conditions of the Original Agreement shall remain unchanged and shall continue in full force and effect unless there is a conflict between the terms and conditions of the Original Agreement, First Amendment, Second Amendment, Third Amendment, Fourth Amendment and this Fifth Amendment, in which event, the terms and conditions of this Fifth Amendment shall control.

6. Facsimile Signature

A signature sent via facsimile shall have the same legal effect as if the Original has been signed in person.

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IN WITNESS WHEREOF, the County and the Subrecipient have executed the Fourth Supplemental Agreement as of the last date of execution shown below.

APPROVED AS TO FORM

COUNTY OF BERNALILLO

W. Ken Martinez, County Attorney

Shirley Ragin, Interim County Manager

ALBUQUERQUE BERNALILLO COUNTY WATER UTILITY AUTHORITY

BY: _____
Mark S. Sanchez, Executive Director

Date: _____

AMENDED APPENDIX A
ABCWUA Projects
As of September 10, 2024

Projects included in September 14, 2021 MOU

Item #	District Physical Location	District Impact	Expenditure Category	Expenditure Sub-Category	Project	Amount
I-6	District 5	District 5	5. Infrastructure - Sewer	5.2 Clean Water: Centralized Wastewater Collection and Conveyance	Carnuel Sewage Collection System	\$3,845,000.00
I-7	District 2	County Wide	5. Infrastructure - Sewer	5.2 Clean Water: Centralized Wastewater Collection and Conveyance	MDC Water & Sewer Improvements	\$4,200,000.00
I-8	District 2	County Wide	5. Infrastructure - Sewer	5.8 Clean Water: Water Conservation	Mesa del Sol Non-Potable Re-Use Booster Pump & Reservoir	\$4,896,536.00
I-9	District 2	District 2	5. Infrastructure - Water	5.11 Drinking water: Transmission & Distribution	South Valley Drinking Water Project, Phase 8/9	\$8,000,000.00
I-10	District 3	District 3	5. Infrastructure - Sewer	5.5 Clean Water: Other Sewer Infrastructure	KAFB Tijeras Interceptor Rehabilitation	\$15,000,000.00
I-11	Districts 1 & 4	Districts 1 & 4	5. Infrastructure - Water	5.11 Drinking water: Transmission & Distribution	Volcano Cliffs & Corrales Trunk Reservoir & Transmission Line Improvements • District 1 - \$10 million; District 4 - \$5 million	\$15,000,000.00
I-16	District 1	District 1	5. Infrastructure - Sewer	5.8 Clean Water: Water Conservation	Bosque Non-Potable Water Reclamation Plant and Reuse System	\$2,875,037.00
Total MOU ABCWUA Projects						\$53,816,573.00

Project included in Amendment 1 of MOU, September 27, 2022

I-21	District 5	District 5	5. Infrastructure - Water	5.11 Drinking water: Transmission & Distribution	Carnuel Water System Expansion	\$1,000,000.00
Total MOU with Amendment 1 ABCWUA Projects						\$54,816,573.00

Project included in Amendment 2 of MOU, December 13, 2022

I-22	District 1	District 1	5. Infrastructure - Water	5.11 Drinking water: Transmission & Distribution	To'Hajiilee Water Line Extension Project	\$1,000,000.00
Total MOU with Amendment 2 ABCWUA Projects						\$55,816,573.00

Project included in Amendment 3 of MOU, September 12, 2023

I-7	District 2	County Wide	5. Infrastructure - Sewer	5.2 Clean Water: Centralized Wastewater Collection and Conveyance	MDC Water & Sewer Improvements	\$7,473,086.00
Total MOU with Amendment 3 ABCWUA Projects						\$63,289,659.00

Project included in Amendment 4 of MOU, March 12, 2024

I-10	District 3	District 3	5. Infrastructure - Sewer	5.5 Clean Water: Other Sewer Infrastructure	KAFB Tijeras Interceptor Rehabilitation	-\$4,500,000.00
I-7*	District 2	County Wide	5. Infrastructure - Sewer	5.2 Clean Water: Centralized Wastewater Collection and Conveyance	MDC Water & Sewer Improvements	\$4,500,000.00
Total MOU with Amendment 4 ABCWUA Projects						\$63,289,659.00

Project included in Amendment 5 of MOU, September 10, 2024

I-21	District 5	District 5	5. Infrastructure - Water	5.11 Drinking water: Transmission & Distribution	Carnuel Water System Expansion	-\$450,000.00
I-6*	District 5	District 5	5. Infrastructure - Sewer	5.2 Clean Water: Centralized Wastewater Collection and Conveyance	Carnuel Sewage Collection System	\$450,000.00
I-6*	District 5	District 5	5. Infrastructure - Sewer	5.2 Clean Water: Centralized Wastewater Collection and Conveyance	Carnuel Sewage Collection System	\$577,938.61
Total MOU with Amendment 4 ABCWUA Projects						\$63,867,597.61

* Denotes existing project to which the County is reallocating additional funding
The project amounts are estimated based current know factors however, the amounts are subject to change as a result of change orders.