



A unit of American Electric Power

AEP Texas  
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aep.com

November 5, 2013

Mr. Dan Biles, P.E.  
Director of Engineering Services  
City of Corpus Christi  
1201 Leopard Street  
Corpus Christi, TX 78469

Re: Request to elevate AEP Texas Central Company's 69 KV Markham to Bay City Pump Tap Transmission Line that crosses the Mary Rhodes Pipeline Phase 2 site located in Matagorda County

Dear Mr. Biles:

This letter (the "Agreement") sets forth an agreement between the City of Corpus Christi ("Customer") and AEP Texas Central Company ("Texas Central") under the terms of which Texas Central will proceed with the engineering, design, procurement and construction work described in Section 2 of Exhibit A to this Agreement (the "Work"). The Customer has requested that Texas Central elevate the Texas Central 69 KV Markham to Bay City Pump Tap Transmission Line ("Transmission Line") in connection with the Customers Mary Rhodes Pipeline Phase 2 River and Booster Pump Stations Project No. E10008 ("MRPP2 Project") located near Bay City in Matagorda County, Texas. Customer has requested Texas Central to provide this service pursuant to Texas Central's Tariff for Electric Delivery Service (the "Tariff").<sup>1</sup> This Agreement shall only become effective upon Customer's delivery of the properly executed Agreement and required CIAC Payment to Texas Central (the "Effective Date") on or before December 31, 2013.

1. **CIAC Payment.** Customer agrees to compensate Texas Central as a contribution in aid of construction for all costs that Texas Central actually incurs in its performance of the Work, determined in accordance with Texas Central's standard accounting practices (the "CIAC Payment"). Texas Central has indicated that the estimated cost<sup>2</sup> of performing the

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<sup>1</sup> All capitalized terms used in this Agreement, including the attached Exhibit A, but not defined have the meanings given to them in the Tariff, unless the context in which such terms are used clearly indicates otherwise.

<sup>2</sup> As used in this Agreement, the term "cost" means all of Texas Central's expenses in performing the Work including, but not limited to, actual attorney's fees associated with providing the service under this Agreement and all of Texas Central's fully embedded costs for labor, materials, and equipment (including all applicable overheads and taxes associated with Customer's CIAC) as determined in accordance with Texas Central's standard accounting practices and Tariff. CIACs are taxable and "cost" shall include an Income Tax Component of Contribution ("ITCC") at the current applicable rates, which are revised and published by AEP annually and are available upon request.

Work, as outlined in Exhibit A, is One Million Four Hundred Fifty Thousand Dollars (\$1,450,000) which Customer acknowledges is reasonable. The CIAC Payment to be initially made by Customer to Texas Central on the Effective Date of this Agreement is One Million Four Hundred Fifty Thousand Dollars (\$1,450,000) based on the estimated cost of performing the Work as shown in the attached Exhibit A. Exhibit A reflects only an estimate of the scope of the Work and the cost of performing the Work (including the estimated ITCC amount). Customer understands that the actual scope and cost of performing the Work may deviate from that shown in Exhibit A. Customer will retain the right to approve in writing any deviation in the scope or cost of performing the Work shown in Exhibit A if such deviation would result in a cost increase of twenty percent (20%) or more, which approval will not be unreasonably withheld or delayed. In the event that Customer withholds or delays its written approval for more than fifteen (15) days after its receipt of written notification, Texas Central may suspend performance of the Work pending receipt of such approval, and in the event such written approval is withheld or delayed for more than thirty (30) days, Texas Central may cancel this Agreement and recover from Customer all actual costs that Texas Central has incurred (including costs that it has committed to expend and that cannot be cancelled ) through the date of cancellation. Upon completion of the Work, Texas Central shall determine the actual cost incurred in performing the Work. In the event the actual cost of the Work is greater than the CIAC Payment initially made by Customer to Texas Central, Texas Central will invoice Customer for the amount of the deficiency, and Customer will pay such amount within thirty (30) days of receipt of that invoice. In the event the actual cost of the Work, net of the customer allowance, is less than the CIAC Payment initially made by Customer to Texas Central, Texas Central will refund to Customer the amount of the excess within thirty (30) days of its determination of the actual cost of the Work.

2. **Cancellation Costs.** If Customer cancels this Agreement prior to completion of the Work or if Texas Central cancels this Agreement in accordance with either of the following two paragraphs, Customer shall pay Texas Central for all of Texas Central's actual costs related to the Work (including the costs associated with commitments for purchases not yet delivered and/or re-stocking fees or order cancellation fees, and the cost associated with the removal of facilities already installed but rendered idled as a result of the cancellation of the Agreement) through the date this Agreement is canceled ("**Cancellation Costs**"). Texas Central shall make use of the CIAC Payment to pay that obligation and bill Customer for any deficiency, or pay Customer for any excess.
3. **Target Completion Date.** Texas Central shall use commercially reasonable efforts to complete the Work on or before March 1, 2014 (Temporary Solution) and November 30, 2014 (Permanent Solution) ("**Target Completion Date**"). However, Texas Central does not promise to complete the Work by the Target Completion Date; and in no event shall Texas Central have any liability to Customer or any third party in the event that Texas Central is unable to complete the Work by the Target Completion Date. If Customer requests Texas Central to delay performance of the Work, and Texas Central agrees to such a delay, the Target Completion Date shall be extended to account for the effects of the requested delay. Customer will also pay Texas Central an additional CIAC Payment

for any increase in estimated cost of performing the Work resulting from such delay, including demobilization and remobilization costs and suspension, termination or cancellation costs payable to third parties. If, after initiation of a requested delay, Customer does not authorize Texas Central to recommence the Work on or before May 1, 2015, then Texas Central may, at its option, cancel this Agreement. Customer recognizes that events beyond the reasonable control of Texas Central may make it necessary to extend the Target Completion Date. If Texas Central reasonably determines that it will not be able to complete the Work by the Target Completion Date, Texas Central will notify Customer, and the Target Completion Date will be adjusted to reflect the earliest date that Texas Central reasonably determines that it can complete the Work.

4. **Easements.** Customer agrees to assist Texas Central in obtaining, at no cost to Texas Central, easements and rights-of-way (the "Easements") to the extent required for Texas Central's performance of the Work, on terms reasonably acceptable to Texas Central. All costs incurred by either Customer or Texas Central related to obtaining the Easements (including the actual ITCC amount resulting from Customer's reimbursement of Texas Central for these costs) shall be borne by Customer and paid as part of the CIAC Payment. Texas Central and Customer recognize that an estimate of the cost of acquiring the Easements (including the estimated ITCC amount) has been included in the estimated cost of performing the Work. Texas Central agrees to commence commercially reasonable efforts to acquire the Easements upon the Effective Date. However, if the Easements have not been acquired within sixty (60) days after the Effective Date on terms reasonably acceptable to Texas Central, Texas Central may suspend performance of the Work until the Easements have been acquired. If after the expiration of the sixty-day period, Texas Central reasonably determines that it cannot obtain the Easements on reasonably acceptable terms, notwithstanding its commercially reasonable efforts to do so, and that such inability to obtain the Easements will prevent Texas Central from timely performing the Work, then Texas Central may, at its option, cancel this Agreement.
5. **Cooperation.** Customer agrees to meet with Texas Central and to provide Texas Central with information that is reasonably necessary to perform the Work.
6. **Ownership/Use of Work.** All of the facilities installed by Texas Central in performing the Work shall be owned, maintained and controlled solely by Texas Central. Customer understands that it receives no ownership or control of those facilities by virtue of the payment of the CIAC. Texas Central expressly retains the right to use those facilities for any purpose that Texas Central deems appropriate under good utility practices, including the distribution of electric service to other customers.
7. **Performance Standards/Disclaimer of Warranties.** Texas Central will perform the Work in accordance with applicable laws, rules and regulations, including ERCOT requirements and Public Utility Commission of Texas ("PUC") rules and orders, and subject to required regulatory consents and approvals. Except for the foregoing, **TEXAS CENTRAL HEREBY DISCLAIMS ALL EXPRESS OR IMPLIED WARRANTIES, INCLUDING WARRANTIES OF MERCHANTABILITY,**

**FITNESS FOR A PARTICULAR PURPOSE, OR GOOD AND WORKMANLIKE PERFORMANCE.**

8. **Limitation of Liability.** TEXAS CENTRAL (AND ITS OFFICERS, EMPLOYEES AND CONTRACTORS) SHALL NOT BE LIABLE FOR ANY ECONOMIC OR COMMERCIAL LOSSES OR OTHER SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE OR EXEMPLARY DAMAGES (INCLUDING LOSS OF PROFIT OR REVENUE, LOSS OF USE OF EQUIPMENT, COST OF CAPITAL, OR DAMAGE TO REPUTATION OR RELATIONS) RESULTING FROM THE PERFORMANCE OR FAILURE TO PERFORM THE WORK DESCRIBED HEREIN, WHETHER BASED IN CONTRACT, TORT, STRICT LIABILITY, STATUTORY LIABILITY OR ANY OTHER THEORY OF LIABILITY.
9. **Nature of Work.** In performing the Work, Texas Central is making modifications and additions solely to its own electric system, in accordance with the Tariff, in response to Customer's request for electric Delivery Service. Texas Central is not performing any work on any facilities or equipment owned, or to be owned, by Customer. No provision contained in this Agreement and no action on the part of any of the parties hereto shall be construed as creating an employer/employee relationship, joint venture or any other relationship other than that of regulated electric utility and Delivery Service customer. Nothing contained herein shall be construed as a waiver or relinquishment by Texas Central of any right it has or may hereafter have to discontinue Delivery Service for default in the payment of any bill owing or to become owing hereunder or for any reason or cause allowed by law.
10. **Amendments/Modifications.** No amendment or modification of this Agreement shall be valid and binding unless made in writing and signed by the respective authorized representatives of Texas Central and Customer.
11. **Entire Agreement.** This Agreement, together with all applicable provisions of the Tariff, constitutes the entire understanding and commitment of the parties hereto and shall supersede all prior offers, negotiations and agreements relative to the subject matter hereof.

If the foregoing meets with your approval, please have the appropriate authorized officer or agent of your company sign the attached two (2) copies of this letter and return them both to me. I will have one copy with original signatures returned once this Agreement has been fully executed by Texas Central.

We are looking forward to working with you on this project.

Very truly yours,



Customer Services Account Manager

cc: David Hawk-AEP

Agreed and accepted:

City of Corpus Christi

Agreed and accepted:

AEP Texas Central Company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

Exhibit A to City of Corpus Christi/Texas Central Letter Agreement  
Dated November 5, 2013

**1. Assumptions for elevating a portion of the Transmission Line near Bay City in Matagora County:**

- Texas Central does not expect the Work to require the issuance of a Certificate of Convenience and Necessity (CCN) by the Public Utility Commission of Texas. The Cost estimates and Target Completion Date estimates are based on this expectation. If a CCN is determined to be necessary, the Cost estimates and the estimated Target Completion Date will require adjustment. Customer will be responsible for reimbursing Texas Central for all its costs in obtaining such a CCN.

**2. Scope and Estimated Cost of Work:**

Scope of Work	Customer's Share of Estimated Cost of Work
• Permanent Solution: Texas Central will install two deadend structures and two tangent structures to increase the height of the Transmission Line between structures 2/8 and 3/1	<b>\$989,090.16</b>
• Temporary Solution: Install two direct embed tangent structures to increase line height to allow City of Corpus Christi to start construction	<b>\$364,440</b>
• Federal Income Tax Component of Contribution (ITCC)	<b>\$132,069.84</b>
• Texas Central will remove 4 H-Frame Structures	<b>\$14,400</b>
• Preliminary Engineering Agreement	<b>(\$50,000)</b>
<b>Total Estimated Cost of Work to be Paid by Customer</b>	<b>\$1,450,000</b>