



AGENDA MEMORANDUM

Action Item for the City Council Meeting of June 25, 2024

DATE: April 19, 2024

TO: Peter Zaroni, City Manager

FROM: Drew Molly P.E, Director of Water Systems and Support Services
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Motion authorizing payment of the Income Tax Component of Contribution in the amount of \$255,750.00 to American Electric Power, Texas (AEP) for the Direct Connect Agreement

CAPTION:

Motion authorizing payment of the Federal Income Tax Component of Contribution (ITCC) in the amount of \$255,750.00 to American Electric Power, Texas (AEP) for the Contribution in Aid of Construction Direct Connect Agreement for the Inner Harbor Seawater Desalination Treatment Plant Project, with FY 2024 funding available from the State Water Implementation Fund for Texas (SWIFT).

SUMMARY:

This motion authorizes payment of the income tax component of the Contribution in Aid of Construction (CIAC) Agreement in the amount of \$255,750.00, located in Council District 1 with FY 2024 funding available from the State Water Implementation Fund Texas Loan-2020.

BACKGROUND AND FINDINGS:

City Council approved the Direct Connect Agreement (CIAC) to pay \$3,062,880 for construction of electric facilities required for the Inner Harbor Desalination Treatment Plant Project. The City's contribution of \$3,062,880 is considered by the IRS to be a prepayment for service, and AEP is required to pay income tax on the \$3,062,880. Prior to 2017, AEP was not required to pay income tax on contributions made by the government because of a public benefit exception, however in 2017, the Internal Revenue Code was amended to require that all contributions, including contributions for government projects, are subject to income tax. The Public Utility Commission of Texas approved AEP's Tariff for Electric Delivery Services (Tariff). Chapter 6 of the Tariff provides that CIACs are taxable and shall include an Income Tax Component (ITCC). The amount of the CIAC will be the total cost of the facilities plus the impact for taxes.

AEP Texas delivers electricity to over one million electric meters, serving homes, businesses, and industries in south and west Texas. AEP Texas provides regulated energy delivery service to consumers, regardless of which Retail Electric Provider (REP) they choose. The region headquarters is in Corpus Christi. AEP Texas also builds new powerlines, restores service

following outages and uses advanced meters to record electric use for REPs throughout its service territory.

On May 24, 2023, Council authorized a professional services agreement with AEP Texas to provide preliminary engineering and regulatory work associated with the interconnection of the plant to the ERCOT electric transmission grid. On January 30, 2024, Council authorized a CIAC with AEP for the Direct Connect Agreement, which includes the construction of a new 138 kV transmission line(s) and a new 138 kV substation. Total construction cost is \$16,719,288 to which the City will contribute \$3,062,880 plus the tax impacts of \$255,750.

PROJECT TIMELINE:

Design and construction of the 138 kV power infrastructure will commence once the contract is executed.

ALTERNATIVES:

An alternative is to not proceed with the authorization which will delay the construction of the 138 kV power infrastructure and ultimately delay the Project.

AEP Texas is the owner and operator of electric delivery infrastructure in our area, staff finds no equal measures available and is unable to recommend alternatives that are not in the best interest of public safety.

FISCAL IMPACT:

This fiscal impact for FY 2024 is an amount of \$255,750 for preliminary design, with funding available from the State Water Implementation Fund for Texas (SWIFT).

FUNDING DETAIL:

This project is listed in the FY 2024 Capital Improvement Program.

Fund: 2020C SWIRFT Bd (Fund 4483)
Department: Water Planning (041)
Project: Seawater Desalination (Project No. E15117)
Account: Design / Outside Consultants (550950)
Activity: E15117-01-4483-EXP
Amount: \$255,750

RECOMMENDATION:

Staff recommends approval of the authorization to pay the Income Tax Component of Contribution in the amount of \$255,750.00 to American Electric Power, Texas for the Direct Connect Agreement.

LIST OF SUPPORTING DOCUMENTS: