

RESOLUTION 2024-R-82

RESOLUTION EXPRESSING SUPPORT FOR THE BRAZOSPORT WATER SUPPLY CORPORATION RESERVOIR PROJECT AND CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT

WHEREAS, the Brazosport Water Authority (the “Authority”) was created by 1985 Tex. Laws, Reg. Sess., Ch. 449 at 3063, as amended, under the authority of Article XIV, Section 59 of the Texas Constitution, and the boundaries of the Authority have not been in any way changed or altered since the enactment of Chapter 449, Acts of the 69th Legislature of Texas, Regular Session, 1985. The Authority has entered into a take-or-pay water supply contract (the “Contract”), dated February 20, 1987, with seven member cities of the Authority (each a “Member City”), including the City of Richwood (the “City”), under the terms of which the Member Cities are collectively obligated to make payments to the Authority sufficient to pay Operating Costs (as defined in the Contract), and such Contract remains in full force and effect;

WHEREAS, the Brazosport Water Supply Corporation (the “Corporation”) is a public instrumentality and water supply corporation created pursuant to the provisions of Chapter 67, Texas Water Code (the “Act”), for the benefit of the Authority, in cooperation with The Dow Chemical Company (“Dow”);

WHEREAS, the Corporation is a duly constituted authority and instrumentality of the Authority within the meaning of those terms in the Regulations of the Department of the Treasury and the rulings of the Internal Revenue Service (the “IRS”) prescribed and promulgated pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the “Code”);

WHEREAS, the Corporation is authorized by the Act to issue bonds and notes for any project or improvement authorized by the Act and is authorized to act on behalf of the Authority under its bylaws;

WHEREAS, the Corporation, the Authority, and Dow are located in Brazoria County, Texas and the Authority and Dow currently utilize the Harris Reservoir with a storage capacity of 10,000-acre feet of surface water primarily drawn from the Brazos River;

WHEREAS, given the uncertain flow of the Brazos River and the growing population of Brazoria County, the Authority and Dow face increasing need for the storage of water to accommodate any inconsistencies of water available from river flow;

WHEREAS, the Authority and Dow determined that it is in each of their best interest to develop additional storage capacity through a 51,000 acre-foot reservoir to be constructed adjacent to the existing Harris Reservoir in Brazoria County, Texas, a 150,000 gallons per minute pumping station, and ancillary assets to provide water to the Authority and Dow, including necessary land and work product purchases, together with such extensions, enlargements and modifications as may be required in the future or as may be necessary to comply with any regulatory requirements, and to act in such other purposes in connection with the foregoing as may be authorized under the Corporation’s bylaws and the Act (the “BWSC Reservoir Project”);

WHEREAS, the BWSC Reservoir Project will, with the Authority and Dow as its customers, serve Brazoria County and southern Fort Bend County, including the City and the Cities of Angleton, Brazoria, Clute, Freeport, Lake Jackson, Oyster Creek, and Rosenberg, two Texas Department of Criminal Justice prison units, and the industrial base of Brazoria County;

WHEREAS, Brazoria County and Fort Bend Counties are among the counties with the fastest growing populations in Texas and the BWSC Reservoir Project will, through the Authority and Dow, provide the requisite water for new residential and commercial customers;

WHEREAS, the BWSC Reservoir Project will enhance and stabilize the Texas economy because it will provide significantly increased water security for the petrochemical industry of southern Brazoria County;

WHEREAS, as documented by the Authority, the BWSC Reservoir Project is part of the Texas Water Development Board's (the "TWDB") 2022 State Water Plan and will relieve water storage pressure in the Brazos River basin during drought periods by providing increased storage capacity near the Gulf of Mexico and relieving the peak demand on current reservoirs upstream in Central and North Texas;

WHEREAS, the Corporation has filed an application for financial assistance under the Texas Water Development Fund ("DFund") in an amount not to exceed \$2,500,000.00 and has filed an abridged application under the State Water Implementation Fund for Texas ("SWIFT") with the TWDB in an amount not to exceed \$750,000,000.00, for financial assistance to finance the costs of the BWSC Reservoir Project for up to five years;

WHEREAS, the City acknowledges that although the Authority will not issue Bonds (as defined in the Contract) for the BWSC Reservoir Project, the Authority will pay fees for water storage, which will be included among the Authority's Operating Costs (as defined in the Contract) and accounted for in the City's annual water rate from the Authority;

WHEREAS, the City acknowledges that partnering with Dow in the BWSC Reservoir Project will save the City approximately \$4,760,000 as compared to pursuing a reservoir project with the Authority alone; and

WHEREAS, as a Member City, the City desires to express support for the BWSC Reservoir Project and finds the BWSC Reservoir Project to be necessary, feasible, and desirable to the City.

NOW THEREFORE; BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RICHWOOD, TEXAS:

1. The recitals to this Resolution are hereby approved and incorporated herein for all purposes, including the defined terms contained therein.
2. The City hereby expresses its support for the BWSC Reservoir Project, including the Corporation's applications for DFund and SWIFT with TWDB, and finds the financing and construction of the BWSC Reservoir Project in the best interest of the City.

3. The City hereby authorizes the Mayor or his designee to take all actions and do all other things, as may be necessary, desirable, or appropriate to carry out or assist in carrying out the purposes of this Resolution.

4. It is hereby officially found and determined that the meeting at which this Resolution was adopted was open to the public, and that public notice of the time, place and purpose of said meeting was given, all as required by the Texas Open Meetings Act.

PASSED AND APPROVED on this 12th day of February 2024.

Michael Durham, Mayor

ATTEST:

Kirsten Garcia, City Secretary