File #: 24-1866, **Version:** 1

Resolution to Approve Change Order No. 1 to the Contract with Melink Solar, LLC for Solar Installations at the Water Recovery Facility to Cover Additional Project Costs of up to $27,441.70, to Include the ARPA Addendum, and to Extend the Time for Completion by 12 Months (Total Contract amount: $2,258,171.70)

In November of 2023, City Council approved four construction contracts with Melink Solar, LLC for solar installations at designated sites in the City (R-23-423). All four contracts were eligible to be funded with American Rescue Plan Act (ARPA) funds that the City had designated for solar installations on City facilities. However, because ARPA funding comes with specific reporting requirements, City staff decided at the time that it would be best to apply all the designated ARPA funds to only the largest of the four contracts (Wheeler Service Center), rather than spreading the funding over many contracts. Thus, the contract for installation of solar systems at the City's Water Recovery Facility did not originally include the ARPA Addendum with the provisions that are required for contracts that are funded - wholly or partially - by ARPA funds, because none of the designated ARPA funding was originally allocated to this contract.

However, as staff learned more about the Direct Pay Provision authorized under the Inflation Reduction Act, it became clear that the choice to apply all the ARPA funding to only the Wheeler Service Center contract meant the City was going to lose the possibility of getting $899,004.00 returned as reimbursement from the federal government. Pursuant to the Direct Pay Provision, local governments are eligible to receive up to a 30% reimbursement for renewable energy projects. The caveat is that a local government cannot make money on a project. For example, if the City proceeded with applying all the ARPA funding to only the Wheeler Service Center (Wheeler) contract, and then claimed the 30% Direct Pay rebate, the City would get more money from the federal government than the total cost for the Wheeler project:

Wheeler Project Cost:	$3,063,204
Funding from ARPA For Wheeler Project:	$3,043,247
Non-federal funding for Wheeler Project:	$19,957
30% Direct Pay for Wheeler Project:	$918,961
Total federal funding (ARPA + 30%):	**$3,962,251**
Difference in federal funding and total project cost:	+$899,004

Because the City is not allowed to make money on a project, it would only be eligible to receive a reimbursement of $19,957.00 from the federal government (i.e., the amount of non-federal funding for the project), which would leave $899,004.00 on the table that would otherwise be eligible for reimbursement under the Direct Pay Provision.

To remedy this situation and ensure the City receives the largest federal reimbursement possible, staff recommend approving Change Order No. 1 to the contract with Melink Solar, LLC for solar installations at the Water Recovery Facility (WRF) to add the ARPA Addendum, which will allow ARPA

funds to be applied to this contract. Staff also recommend reducing the amount of funding support from ARPA going to the Wheeler Service Center contract and supplant that with the City's own budget.

The difference in the amount currently allocated under each contract and the proposed amount to be allocated under each contract is shown below:

	Wheeler Current	**Wheeler Proposed**	**WRF Current**	**WRF Proposed**
Project Cost	$3,063,204	$3,063,204	$2,230,730	$2,230,730
ARPA Contribution	$3,043,247	$2,144,243	$0	$899,004
Non-ARPA Contribution	$19,957	$918,961	$2,230,730	$1,331,726
30% Direct Pay Eligible	$918,961	$918,961	$669,219	$669,219
Allowed Direct Pay	$19,957	$918,961	$669,219	$669,219
TOTAL ALLOWED FEDERAL CONTRIBUTION	$3,063,204	$3,063,204	$669,219	$1,568,223
Amount Left Unrecovered	**$899,004**	$0	$0	$0

In addition to the ARPA funding changes, staff also request an increase of $27,441.70 to the Water Recovery Facility contract to cover additional costs related to relay equipment design, purchasing, testing, and construction.

Finally, in addition to the above changes, staff also request a 12-month extension to the Water Recovery Facility contract to accommodate some improvements needed to the roof which were not known at the time of the original contract signing. This extension will increase the time for the work under this contract to be completed from 24 months to 36 months.

Staff in the Office of Sustainability and Innovations have been in discussions with Melink Solar, LLC about these changes, and Melink Solar, LLC has agreed to make these modifications to maximize the amount of reimbursement the City receives.

Melink Solar, LLC has submitted all required Non-Discrimination, Prevailing Wage, Living Wage, and Conflict of Interest Disclosure forms and complies with the requirements of the City's Non-Discrimination and Living Wage ordinances.

Budget/Fiscal Impact: Staff proposes using $3,043,247.00 in ARPA Funding that was previously designated for solar installations on City Facilities and reallocating it, so the full amount is no longer applied solely to the Wheeler Service Center contract, but rather $2,144,243.00 is applied to the

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Wheeler Service Center contract and $899,004.00 is applied to the Water Recovery Facility contract. The remainder of the funding shall mirror what was included in R-23-423 (i.e., $3,100,001.00 from the General Fund balance) with the additional $27,441.70 coming from the FY25 Office of Sustainability and Innovations budget.
Prepared by: Missy Stults, Sustainability and Innovations Director
Reviewed by: Kim Buselmeier, Chief Financial Officer
Reviewed by: Valerie Jackson, Assistant City Attorney
Approved by: Milton Dohoney Jr., City Administrator
Whereas, In November 2023, through resolution R-23-423, City Council approved four separate construction contracts with Melink Solar, LLC for the construction of roughly 2.8MW of solar systems at various City facilities;

Whereas, A portion of the funding for these projects is coming from the American Rescue Plan Act which requires that contracts funded, in whole or in part by American Rescue Plan Act funding, contain specific provisions and requirements;

Whereas, Of the four contracts approved by R-23-423, only the Wheeler Service Center contract included the required American Rescue Plan Act provisions because at that time staff thought it best to allocate all American Rescue Plan Act funding to only the largest contract;

Whereas, Allocating all American Rescue Plan Act funding for solar installations on City facilities to only the Wheeler Service Center contract created a situation in which the City would not be eligible for significant reimbursement from the federal government through the Inflation Reduction Act's Direct Pay Provision;

Whereas, By reallocating the American Rescue Plan Act funding so that it is split between the Wheeler Service Center contract and the Water Recovery Facility contract the City will be able to take full advantage of the Inflation Reduction Act's Direct Pay Provision and provide the City with up to $899,004.00 more in reimbursement funds than would be possible given existing contracts and allocation;

Whereas, Funding has been identified for the direct purchase of all the proposed solar installations at these City facilities, leading to future direct fiscal and energy savings for the City;

Whereas, Melink Solar, LLC requested up to an additional $27,441.70 for the Water Recovery Facility contract to cover unexpected expenses related to relay equipment costs, design, and construction; and

Whereas, Melink Solar, LLC requested a 12-month extension to the Water Recovery Facility contract to accommodate some improvements needed to the roof which were not known at the time of the original contract signing;

RESOLVED, That City Council approve Change Order No. 1 to the construction contract with Melink Solar, LLC for solar installations at the Water Recovery Facility to cover additional project costs of up to $27,441.70, which increases the total contract amount to $2,258,171.70, to attach the ARPA Addendum, which includes the required American Rescue Plan Act provisions, and to extend the time for completion of the work under the contract by 12 months;

RESOLVED, That City Council affirm the use of $3,043,247.00 in American Rescue Plan Act funds, which were previously allocated solely for the solar project at the Wheeler Service Center, and approve that this American Rescue Plan Act funding be split between the construction contracts for solar installations at the Wheeler Service Center ($2,144,234.00) and the Water Recovery Facility ($899,004.00);

RESOLVED, That City Council appropriate funding for the Wheeler Service Center solar project ($918,961.00) and the Water Recovery Facility solar project ($1,331,726.00) from the General Fund balance that has already been allocated to the FY24 Sustainability General Fund expenditure budget per R-23-423;

RESOLVED, That City Council appropriate $27,442.00 in additional funding for the Water Recovery Facility solar project to the FY25 Sustainability and Innovations budget in the Climate Action Millage Fund from the fund balance of the Climate Action Millage Fund;

RESOLVED, That all amounts approved and appropriated herein are without regard to fiscal year;

RESOLVED, That the Mayor and City Clerk be authorized and directed to execute said agreements after approval as to substance by the City Administrator and approval as to form by the City Attorney; and

RESOLVED, That the City Administrator be authorized to take the necessary administrative actions to implement this resolution.