

**CITY OF LA MARQUE
WORKSHOP OF CITY COUNCIL
BY TELEPHONE CONFERENCE**

In accordance with order of the Office of the Governor issued March 16, 2020, the La Marque City Council will conduct a Workshop on **Monday, December 14, 2020 beginning at 6:00 PM by telephone and video conference** in order to advance the public health goal of limiting face-to-face meetings to slow the spread of the Coronavirus/COVID-19. This Notice, the meeting agenda, and the agenda packet can be found online at:

<https://ci.la-marque.tx.us/AgendaCenter>

THERE WILL BE NO PUBLIC ACCESS TO CITY HALL DURING THE MEETING.

The public will be permitted to offer public comments telephonically as provided below and as permitted by the Mayor during the meeting. A recording of the telephonic meeting will be made and will be available to the public in accordance with the Open Meetings Act upon written request.

THE PUBLIC TOLL-FREE DIAL-IN NUMBER TO PARTICIPATE IN THE MEETING IS:

1 (346) 248-7799

ONCE YOU ARE CONNECTED, YOU MUST ENTER THE FOLLOWING:

Meeting ID: 92493940502

Press *6 to mute or unmute your phone line. You may also connect to the meeting on your smartphone, tablet or computer by going to the following internet address:

<https://zoom.us/j/92493940502>

Once you are on the website, you may need to enter the following:

Meeting ID: 924 9394 0502

If you require accommodation to participate in this meeting, contact the City Clerk at 409-938-9259 or cityclerk@cityoflamarque.org at least 48 hours prior to the meeting start time.



**1111 Bayou Road
La Marque, Texas
409-938-9202**

Mayor Bobby Hocking

Mayor Pro-Tem Keith Bell- District A

Councilmember Chris Lane- District B

Councilmember Robert Michetich- District C

Councilwoman Casey McAuliffe- District D

ORDINANCE NO. O-2020-0021

RESOLUTION NO. R-2020-0023

**CITY OF LA MARQUE
CITY COUNCIL
WORKSHOP AGENDA
of
December 14, 2020**

Notice is hereby given that the City Council of the City of La Marque, Texas will conduct a Workshop Meeting via teleconference (ZOOM) on Monday, December 14, 2020, beginning at 6:00 p.m. for the purpose of considering the following agenda:

(1) CALL MEETING TO ORDER

(2) ROLL CALL

(3) CITIZENS PARTICIPATION (Limited to three minutes per person)

Comments from the public (at this time, any person with city-related business who has signed up may speak to Council on a specific agenda item (limited to three (3) minutes). In compliance with Texas Open Meeting Act, the City may not deliberate on comments. Personal attacks will not be allowed, and personnel matters should be addressed to the City Manager during normal business hours.

(4) CONSENT

Discussion/possible on the following items (City Council reserves the right to pull any item(s) under the consent agenda for further discussion):

- a. Discussion relating to accepting the quarterly investment reports for Third Quarter 2020

(5) OLD BUSINESS

- a. Discussion/possible action regarding Galveston County invoices for COVID-19 testing in the amount of \$118,715.16 – City Manager C. Jackson

(6) NEW BUSINESS

- a. Discussion relating to approving final plat for Mainland Partial Replat No. 1 located near 601 Delany Road, La Marque, Texas – Development Services D. Purnell
- b. Discussion relating to adopting Ordinance No. **O-2020-0021**, changing the zoning district for property at or near 714 Bayou Road from (C-2) Restricted Commercial to (C-1) General Commercial – Development Services D. Purnell
THIS IS THE FIRST READING
- c. Discussion relating to adopting Resolution No. **R-2020-0023**, TCAP's professional services agreement and GEXA Energy's commercial electric service agreement for power to be provided on and after January 1, 2023 – Finance Director S. Kou
- d. Discussion relating to approval of diversity promotion language for use in City contracts and procurement documents – Councilwoman Mc Auliffe
- e. Discussion relating to accepting the resignation and retirement of Municipal Judge Baker and authorizing the City Manager to post a Request for Qualifications to fill the position as needed – City Manager C. Jackson

(7) REQUESTS AND ANNOUNCEMENTS

Requests by Mayor and Council Members for items to be placed on future City Council agendas and announcements on city events/community interests TEX. GOV'T CODE §551.415. (b), "items of community interest" includes:

- (1) expressions of thanks, congratulations, or condolences;*
- (2) information regarding holiday schedules;*
- (3) an honorary or salutary recognition of a public official, public employee, or other citizen, except that a discussion regarding a change in the status of a person's public office or public employment is not an honorary or salutary recognition for purposes of this subdivision;*
- (4) a reminder about an upcoming event organized or sponsored by the governing body;*
- (5) information regarding a social, ceremonial, or community event organized or sponsored by an entity other than the governing body that was attended or is scheduled to be attended by a member of the governing body or an official or employee of the municipality or county;*
and
- (6) announcements involving an imminent threat to the public health and safety of people in the municipality or county that has arisen after the posting of the agenda.*

(8) ADJOURNMENT

CERTIFICATION:

I hereby certify that the above notice of meeting was posted at 1109-B Bayou Road, La Marque, Texas on or before December 11, 2020, before 5:30 p.m.

Robin Eldridge, TRMC
City Clerk

• • • • • This facility is wheelchair accessible and accessible parking spaces are available. Request for accommodations or
• • • • • interpretive services must be made 48 hours prior to this meeting. Please contact the City Clerk's office at 409-938-
• • • • • 9259, or Fax 409-935-0401, or e-mail cityclerk@cityoflamarque.org for further information.
• • • • •



CITY COUNCIL AGENDA FORM

Meeting Date: December 14, 2020

Prepared by: Suzy Kou

Agenda item: 4a

Reviewed by: Charlene Warren/

Charles Jackson

Department: Finance

AGENDA ITEM DESCRIPTION: Discussion relating to accepting the quarterly investment reports for Third Quarter 2020

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ATTACHMENTS FOR REFERENCE

1. Investment Report - Third Quarter 2020

STAFF BRIEFING:

- Per Public Funds Investment Act, we are required to submit quarterly investment reports to Council for acknowledgement purposes

HISTORY: N/A

TARGET IMPLEMENTATION: December 14, 2020

SIGNIFICANT ACTION DATES: N/A

ACTION:

- | | |
|--|---|
| ☐ Ordinance | ☐ Resolution |
| ☐ Special Presentation | ☐ Proclamation |
| ☒ Finance Report | ☐ Public Hearing |
| ☐ Other | |
| ☒ Mark if this item does not conflict with any Resolution, Ordinance or City Charter, policies, procedures | |

Cost Details:

Budgeted	
Actual Bid	
Estimated Expenditure	
Acct. Name(s)	
Line Item #	
Other Funding	

STAFF'S RECOMMENDATION: Recommend to accept the quarterly investment report for Third Quarter 2020

FISCAL IMPACT: N/A



City of La Marque, Texas

Quarter Ended **9/30/2020**
Detailed Holdings

TexPool Rate: 0.1474
Logic Rate: 0.2565
DWS 0.0400

Fund	Fund Categories	Description	Type	CUSIP	Coupon	Settlement Date	Maturity Date	Par Value	Purch Price	Purch Cost	Book Value	Mkt Price	Mkt Value	Days to Mat	YTM
General Fund	General Fund	Logic	LGIP		0.2565			4,745,281.67	100.000	4,745,281.67	4,745,281.67	100.000	4,745,281.67	1	0.2565
General Fund	General Fund	TexPool	LGIP		0.1474			577,131.26	100.000	577,131.26	577,131.26	100.000	577,131.26	1	0.1474
General Fund	General Fund	DWS	MMKT		0.0400			298,088.60	101.000	298,088.60	298,088.60	100.000	298,088.60	1	0.0400
Utility Fund	Utility Fund	Logic	LGIP		0.2565			3,279,502.13	100.000	3,279,502.13	3,279,502.13	100.000	3,279,502.13	1	0.2565
Utility Fund	Utility Fund	TexPool	LGIP		0.1474			398,860.03	100.000	398,860.03	398,860.03	100.000	398,860.03	1	0.1474
Utility Fund	Utility Fund	DWS	MMKT		0.0400			206,011.41	100.000	206,011.41	206,011.41	100.000	206,011.41	1	0.0400
Utility Fund	Utility Fund (Restricted)	Logic	LGIP		0.2565			78,231.47	100.000	78,231.47	78,231.47	100.000	78,231.47	1	0.2565
Utility Fund	Utility Fund (Restricted)	TexPool	LGIP		0.1474			9,514.68	100.000	9,514.68	9,514.68	100.000	9,514.68	1	0.1474
Utility Fund	Utility Fund (Restricted)	DWS	MMKT		0.0400			4,914.34	100.000	4,914.34	4,914.34	100.000	4,914.34	1	0.0400
Replacement Fund	Replacement Fund	Logic	LGIP		0.2565			330,334.04	100.000	330,334.04	330,334.04	100.000	330,334.04	1	0.2565
Replacement Fund	Replacement Fund	TexPool	LGIP		0.1474			40,175.93	100.000	40,175.93	40,175.93	100.000	40,175.93	1	0.1474
Replacement Fund	Replacement Fund	DWS	MMKT		0.0400			20,750.89	100.000	20,750.89	20,750.89	100.000	20,750.89	1	0.0400
Hotel Motel Fund	Hotel Motel Fund	Logic	LGIP		0.2565			474,483.12	100.000	474,483.12	474,483.12	100.000	474,483.12	1	0.2565
Hotel Motel Fund	Hotel Motel Fund	TexPool	LGIP		0.1474			57,707.65	100.000	57,707.65	57,707.65	100.000	57,707.65	1	0.1474
Hotel Motel Fund	Hotel Motel Fund	DWS	MMKT		0.0400			29,806.03	100.000	29,806.03	29,806.03	100.000	29,806.03	1	0.0400
Debt Service	Debt Service Fund	Logic	LGIP		0.2565			433,490.75	100.000	433,490.75	433,490.75	100.000	433,490.75	1	0.2565
Debt Service	Debt Service Fund	TexPool	LGIP		0.1474			52,722.07	100.000	52,722.07	52,722.07	100.000	52,722.07	1	0.1474
Debt Service	Debt Service Fund	DWS	MMKT		0.0400			27,230.98	100.000	27,230.98	27,230.98	100.000	27,230.98	1	0.0400
LM EDC Operating	LM EDC	Logic	LGIP		0.2565			3,302,550.25	100.000	3,302,550.25	3,302,550.25	100.000	3,302,550.25	1	0.2565
LM EDC Operating	LM EDC	TexPool	LGIP		0.1474			1,240,578.23	100.000	1,240,578.23	1,240,578.23	100.000	1,240,578.23	1	0.1474
LM EDC Operating	LM EDC	DWS	MMKT		0.0400			653.36	100.000	653.36	653.36	100.000	653.36	1	0.0400
LM EDC Operating	LM EDC	Money Market	MMKT		0.1500			35,815.22	100.000	35,815.22	35,815.22	100.000	35,815.22	1	0.1500
LM EDC Operating	LM EDC	Texas First	CD	5177	1.3100	11/27/2019	11/27/2020	200,801.22	100.000	200,801.22	200,801.22	100.000	200,801.22	58	0.6000
LM EDC Operating	LM EDC	Amoco CD	CD		0.7000	8/30/2020	8/30/2021	105,033.25	100.000	105,033.25	105,033.25	100.000	105,033.25	334	0.8000
LM EDC Operating	LM EDC	ACU CD	CD		0.6480	8/31/2020	8/31/2021	100,000.00	100.000	100,000.00	100,000.00	100.000	100,000.00	335	1.0000
1998 TWDB Sewer Rehab	Capital Projects Fund	DWS	MMKT		0.0400			163,881.78	100.000	163,881.78	163,881.78	100.000	163,881.78	1	0.0400
2005 CO	Capital Projects Fund	TexPool	LGIP		0.1474			124,732.65	100.000	124,732.65	124,732.65	100.000	124,732.65	1	0.1474
2007 CO	Capital Projects Fund	TexPool	LGIP		0.1474			391,206.29	100.000	391,206.29	391,206.29	100.000	391,206.29	1	0.1474
2016 CO	Capital Projects Fund	Logic	LGIP		0.2565			487,876.00	100.000	487,876.00	487,876.00	100.000	487,876.00	1	0.2565
2018 CO	Capital Projects Fund	Logic	LGIP		0.2565			2,421,657.06	100.000	2,421,657.06	2,421,657.06	100.000	2,421,657.06	1	0.2565
2020 CO	Capital Projects Fund	Logic	LGIP		0.2565			6,496,887.08	100.000	6,496,887.08	6,496,887.08	100.000	6,496,887.08	1	0.2565
Special Revenue Funds	Special Revenue Fund	DWS	MMKT		0.0400			17,482.98	100.000	17,482.98	17,482.98	100.000	17,482.98	1	0.0400
Special Revenue Funds	Special Revenue Fund	TexPool	LGIP		0.1474			33,848.91	100.000	33,848.91	33,848.91	100.000	33,848.91	1	0.1474
Special Revenue Funds	Special Revenue Fund	Logic	LGIP		0.2565			278,312.14	100.000	278,312.14	278,312.14	100.000	278,312.14	1	0.2565
Library Memorial	Fiduciary Fund	Logic	LGIP		0.2565			2,888.98	100.000	2,888.98	2,888.98	100.000	2,888.98	1	0.2565
Drug Seizure	Fiduciary Fund	Logic	LGIP		0.2565			458,316.10	100.000	458,316.10	458,316.10	100.000	458,316.10	1	0.2565
								26,926,758.52	26,926,758.52	26,926,758.52	26,926,758.52	26,926,758.52	26,926,758.52	4	0.2458

I certified that the Quarterly Investment Report represents the investment position of City of La Marque as of September 30, 2020 to the best of my knowledge and all investments under the City's control have been and are in compliance with the Texas Public Funds Investment Act and the City's Investment Policy as adopted by City Council.

Suzanne K...

Investment Officer, CPFIM



City of La Marque, Texas

Quarter ended 9/30/2020

Summary Data

Type Breakdown:	Book Value	Percent	Wtd Avg Mat	Wtd Avg Yield
LGIP	25,716,288.47	95.50%	1	0.244
MMKT	804,635.58	2.99%	1	0.045
CD	405,834.47	1.51%	198	0.750
	26,926,758.52	100.00%	4	0.246

Issuer Breakdown:	Book Value	Percent	Wtd Avg Mat	Wtd Avg Yield
Texas First	200,801.22	0.75%	58	0.600
ACU CD	100,000.00	0.37%	335	1.000
Amoco CD	105,033.25	0.39%	334	0.800
Money Market	35,815.22	0.13%	1	0.150
DWS	768,820.36	2.86%	1	0.040
Logic	22,789,810.78	84.64%	1	0.257
TexPool	2,926,477.69	10.87%	1	0.147
	26,926,758.52	100.00%	4	0.246

Fund Breakdown:	Book Value	Percent	Wtd Avg Mat	Wtd Avg Yield
General Fund	5,620,501.52	20.87%	1	0.234
Utility Fund	3,884,373.57	14.43%	1	0.234
Utility Fund (Restricted)	92,660.49	0.34%	1	0.234
Replacement Fund	391,260.86	1.45%	1	0.234
Capital Projects Fund	10,086,240.86	37.46%	1	0.247
Hotel Motel Fund	561,996.80	2.09%	1	0.234
Debt Service Fund	513,443.79	1.91%	1	0.234
LM EDC	4,985,431.53	18.51%	17	0.269
Special Revenue Fund	329,644.03	1.22%	1	0.234
Fiduciary Fund	461,205.08	1.71%	1	0.257
	26,926,758.52	100.00%	4	0.246

Maturity Breakdown:	Book Value	Percent
Less Than 90 Days	26,721,725.27	99.24%
90 to 180 Days	-	0.00%
181 to 365 Days	205,033.25	0.76%
More Than 365 Days	-	0.00%
	26,926,758.52	100.00%



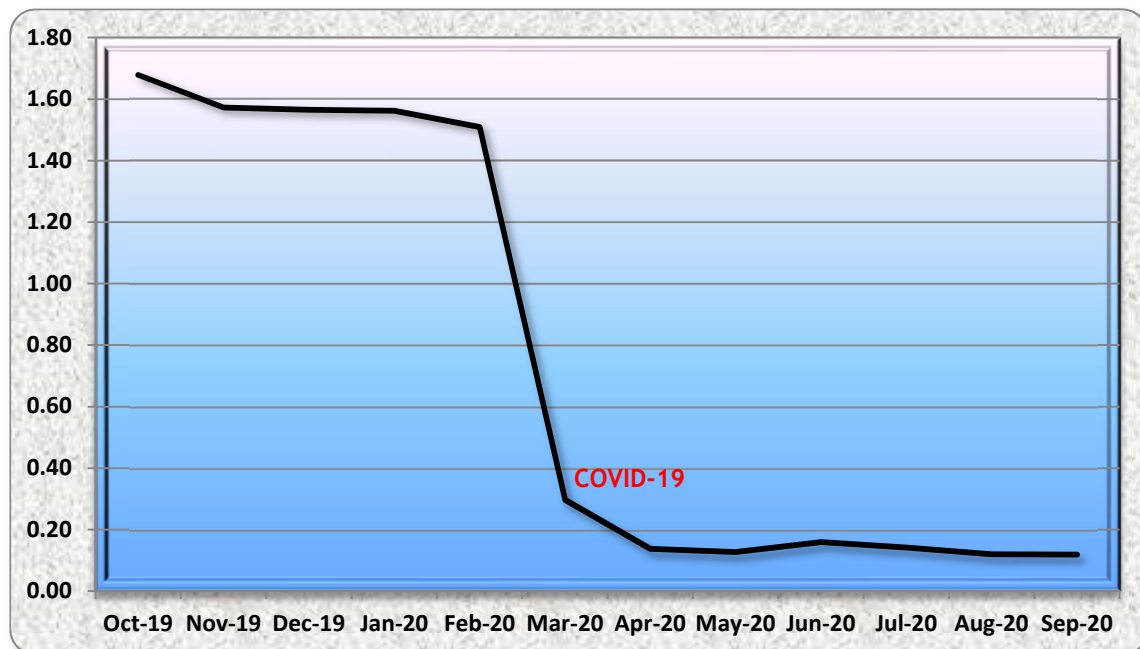
City of La Marque, Texas

Summary Investment Report For Period Ended 9/30/2020

Total Portfolio Summary			
	Current Quarter 9/30/2020	Prior Quarter 6/30/2020	Change From Prior
Book Value	26,926,759	23,787,680	3,139,079
Market Value	26,926,759	23,787,680	3,139,079
Market Value%	100.00%	100.00%	0.00%
Weighted Average Maturity - Days	4 days	3 days	1 days
Weighted Average Yield	0.25%	0.56%	-0.31%

Portfolio Performance Summary	
Beginning Book Value	23,787,680
Beginning Market Value	23,787,680
Beginning WAM	3 days <i>Liquidity measurement</i>
Ending Book Value	26,926,759
Ending Market Value	26,926,759
Change in market value	3,139,079 <i>Volatility measurement</i>
Ending WAM	4 days <i>Liquidity measurement</i>
Period Average Yield	0.25%
Period Average Benchmark	0.13%

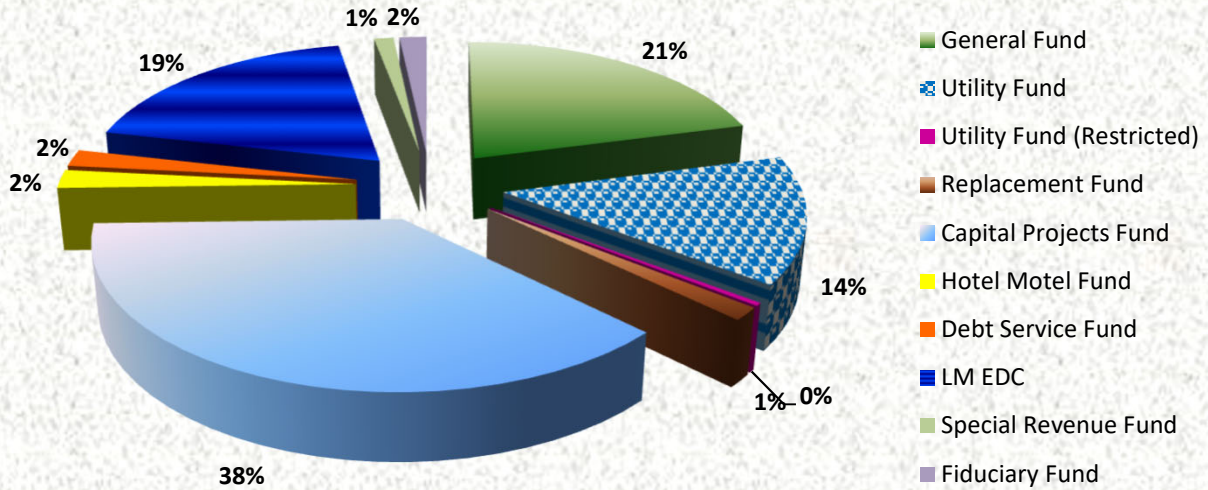
6-Month T-Bill Historical Trend





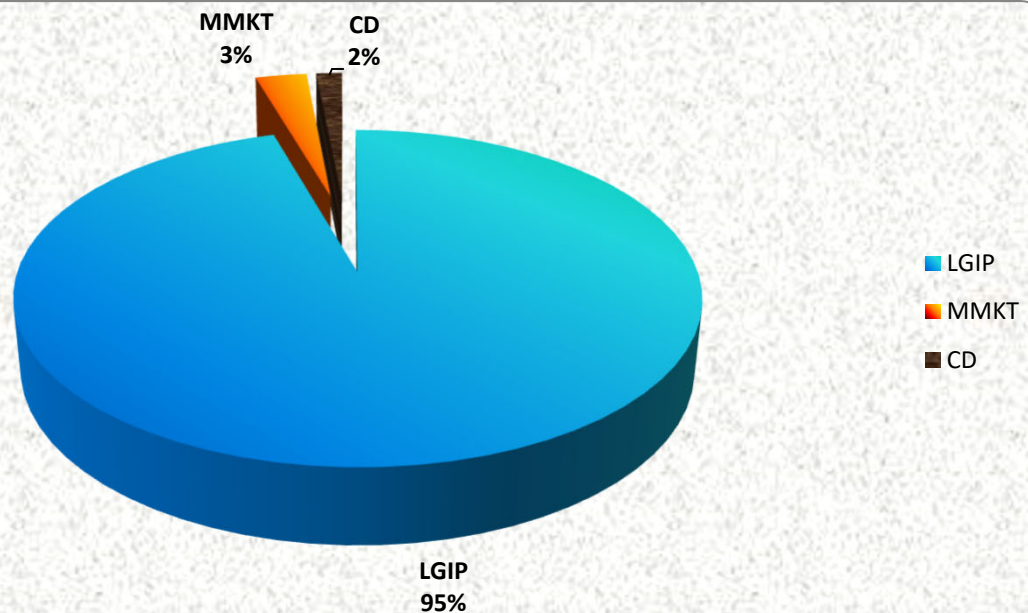
Investment Portfolio by Funds

As of 9/30/2020



Investment Portfolio by Types

As of 9/30/2020





CITY COUNCIL AGENDA FORM

Meeting Date: December 14, 2020

Prepared by: Charlene Warren

Agenda item: 5a

Reviewed by: Charlene Warren

Charles Jackson

Department: Administration

AGENDA ITEM DESCRIPTION: Discussion/possible action regarding Galveston County invoices for COVID-19 testing in the amount of \$118,715.16

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ATTACHMENTS FOR REFERENCE

1. Cover letter
2. Invoice – May to September 2020
3. Invoice – October 2020
4. Invoice – November 2020

STAFF BRIEFING:

- Galveston County and its thirteen (13) municipalities received funding from the Coronavirus Relief Fund (CRF) under the Coronavirus Aid, Relief, and Economic Security Act (CARES Act)
- Allocation to the City of La Marque was \$924,935, based on population at \$55 per capita; all funding is required to be expended by December 30, 2020 or the funds are to be returned
- Galveston County's allotment was \$2.3M, of which they committed over 56% (\$1.3M) to expanded public testing and assisting GCHD with their needs
- Staff's recommendation was to retain the CARES Act funding for the City's current/future COVID-19 needs and in December, transfer any unused funding to Galveston County
- At the July 13, 2020 meeting, City Council requested to table and return for consideration on the August 10, 2020 agenda
- At the August 10, 2020, Council voted to deny the interlocal agreement
- On October 26, 2020, Finance Director Kou notified City Manager Jackson of an invoice from the County of Galveston requesting payment in the amount of \$101,515.16 for COVID-19 testing for La Marque for the months May through September, 2020
- At the November 9, 2020 meeting, City Council voted to take no action on the May – September invoices
- On December 7, 2020, Finance Director received invoices for October – November, 2020
- To date, a total of \$1,287,128.17 in expenditures have been submitted for reimbursement (reimbursement pending)
- Projected EDC reimbursement - \$120,000; available 75% portion to be submitted for CARES - \$127,204.62
- State will be verifying qualified expenditure with all supporting documents before approving all the submissions

HISTORY: N/A



CITY COUNCIL AGENDA FORM

TARGET IMPLEMENTATION: Dependent upon Council action

SIGNIFICANT ACTION DATES:

07/13/2020 - City Council voted to table interlocal agreement consideration until the August meeting

8/10/2020 - City Council voted to deny the interlocal agreement

11/9/2020 - City Council voted to take no action on the invoices submitted by Galveston County

ACTION:

- | | |
|--|---|
| ☐ Ordinance | ☐ Resolution |
| ☐ Special Presentation | ☐ Proclamation |
| ☐ Finance Report | ☐ Public Hearing |
| ☒ Other - Invoices | |
| ☒ Mark if this item does not conflict with any Resolution, Ordinance or City Charter, policies, procedures | |

Cost Details:

Budgeted	
Actual Bid	
Estimated Expenditure	
Acct. Name(s)	
Line Item #	
Other Funding	

STAFF'S RECOMMENDATION: Dependent upon City Council's direction

FISCAL IMPACT: Up to \$118,715.16



Dear City Municipality,

Since May 2020, Galveston County and UTMB has run a successful COVID-19 testing program for all Galveston County residents. As of mid-September, 68,504 tests have been completed and paid for under this program. In June 2020, Galveston County entered into an inter-local agreement with the Galveston County's Health District to "*Track, Respond & Mitigate*" Covid-19 within our County. This successful commitment has aided in the overall reduction of Covid positive cases. Per our ongoing conversations with your Emergency Management Coordinator, the enclosed invoice includes your city's respective costs for these services. Services enclosed include testing costs for your city's respective residents and costs for the services of the Galveston County Health District.

As you know, the CARES Act requires that 75% of funds received must go to cover COVID related response expenditures. 100% of this invoice goes to the 75% requirement.

We appreciate your partnership during these challenging times. Working together, we have successfully protected the vast majority of our citizens all while keeping our county open.

Please review your attached invoice. If you have any questions, please feel free to contact Galveston County Emergency Management Coordinator, Scott Tafuri at Scott.Tafuri@co.galveston.tx.us or 281-309-5003.

Please remit your payment to
Galveston County AP Clerk
722 Moody (21st St.) 4Fl.
Galveston, TX. 77550

Sincerely,

Galveston County



City of La Marque
CITY HALL
A/P Clerk Finance
1111 Bayou Road
La Marque, TX 77568
409-938-9200

10/01/2020

Invoice #: C19Testing 05, 06, 07, 08, 09/2020 + GCHD for La Marque

For Covid 19 Testing (PCR & AntiBody) for the Months of May, June, July, August & September 2020

May - 72 - PCR-Nasal Swab Tests & Processed	\$100.00 Unit Cost	Sub-total \$7,200.00
June - 284 - PCR-Nasal Swab Tests & Processed	\$100.00 Unit Cost	Sub-total \$28,400.00
June -20 - Antibody Tests Administered & Processed	\$ 52.00 Unit Cost	Sub-total \$1,040.00
July - 298 - PCR-Nasal Swab Tests & Processed	\$100.00 Unit Cost	Sub-total \$29,800.00
July - 21 - Antibody Tests Administered & Processed	\$ 52.00 Unit Cost	Sub-total \$1,092.00
August - 95 - PCR-Nasal Swab Tests & Processed	\$100.00 Unit Cost	Sub-total \$9,500.00
August - 5 - Antibody Tests Administered & Processed	\$ 52.00 Unit Cost	Sub-total \$260.00
September - 55 - PCR-Nasal Swab Tests & Processed	\$100.00 Unit Cost	Sub-total \$5,500.00
September - 1 – Antibody Tests & Processed	\$52.00 Unit Cost	Sub-total \$52.00
1 - Galveston County Health District – <i>Track, Respond & Mitigate</i>		Sub-total \$18,671.16
		Total: \$101,515.16

Please remit payment to:

Galveston County AP Clerk

722 Moody (21st St.) 4Fl.

Galveston, TX. 77550

The County of Galveston

Attn: Lisa McCabe - Auditor's Office

P.O. Box 1418

Galveston, Texas 77553

Lisa.McCabe@galvestoncountytx.gov

TO:

City of La Marque
Attn: City Hall - A/P Clerk Finance
1111 Bayou Road
La Marque, Texas 77568

Invoice #

AR210327

Invoice Date

12/7/2020

Pymt Due Date

1/7/2021

Amount Due

\$7,400.00

Account Number				Description	Invoice Amount
2950 411050 4301030				We bill you for the COVID-19 Testing for the month of October 2020. <i>**If you have any questions regarding your invoice please call James Gentile 409-770-5543**</i> Prepared By: Lisa McCabe	\$7,400.00
Current	Over 30 days	Over 60 Days	Over 90 days	Customer Number	Total Amount Due
\$7,400.00	\$ -	\$ -	\$ -	A00080	\$ 7,400.00

Please mail a copy of this invoice with your remittance to the above address and make checks payable to County of Galveston

Randall Rice, County Auditor

Billing Period
10/1/2020 - 10/31/2020

Cost Per Test
\$100.00

Cost Per Test
\$52.00

City	NASAL Test Count	Antibody Test Count	Sub-Total Nasal Swab	Sub-Total Antibody	Total \$\$\$
Bayou Vista	1	0	\$100.00	\$0.00	\$100.00
Clear Lake Shores	0	0	\$0.00	\$0.00	\$0.00
Dickinson	150	0	\$15,000.00	\$0.00	\$15,000.00
Friendswood	49	0	\$4,900.00	\$0.00	\$4,900.00
Galveston	316	1	\$31,600.00	\$52.00	\$31,652.00
Hitchcock	44	0	\$4,400.00	\$0.00	\$4,400.00
Jamaica Beach	3	0	\$300.00	\$0.00	\$300.00
Kemah	13	0	\$1,300.00	\$0.00	\$1,300.00
La Marque	74	0	\$7,400.00	\$0.00	\$7,400.00
League City	195	0	\$19,500.00	\$0.00	\$19,500.00
Santa Fe	44	0	\$4,400.00	\$0.00	\$4,400.00
Texas City	180	0	\$18,000.00	\$0.00	\$18,000.00
Tiki Island	2	0	\$200.00	\$0.00	\$200.00
					\$107,152.00

SORT ORDER: Set ID then by CR-REF

Fully Qualified Account No. / Pr	Echo Fully Qualified Account N	Fin Code	Ref Dt	Invoice Number	Def. Plan	Tax Cd &	Amt	Rec#
Amount	Description	Prep ID	Due Dt	Sec Reference	Int. Rate	Tax Cd &	Amt	
ID & Text Ptr & Format	Name		Bill Dt	Product ID	Disc.Term	Duty Cd &	Amt	
Div & Type & Misc & Post Code	Fee Code	Rel. Cd.	Qty.	Reference Amt.	Disc. Amt	Chg. Cd &	Amt	
=====	=====	=====	=====	=====	=====	=====	=====	=====
2950411050-4301030	COVID-19 Testin Interlocal Agr		10/31/20	AR210327	0		0.00	1
7,400.00	10/20 LaMarque COVID testing	MCCABEL	01/07/21		0.00		0.00	
A00080 NONE IB	CITY OF LA MARQUE		12/07/20		0.0000		0.00	
ARBL T AUAR 01	COVIDTEST		1.00000	7,400.00	0.00		0.00	

System Total

Set ID: R2100327 System Computed Total: 7,400.00 User Computed Total: 7,400.00 TOTALS MATCH

GRAND TOTAL System Computed Total: 7,400.00 User Computed Total: 7,400.00 TOTALS MATCH

Final Budget Check

No Budget Errors

The County of Galveston

Attn: Lisa McCabe - Auditor's Office

P.O. Box 1418

Galveston, Texas 77553

Lisa.McCabe@galvestoncountytx.gov

TO:

City of La Marque
Attn: City Hall - A/P Clerk Finance
1111 Bayou Road
La Marque, Texas 77568

Invoice #

AR210340

Invoice Date

12/7/2020

Pymt Due Date

1/7/2021

Amount Due

\$9,800.00

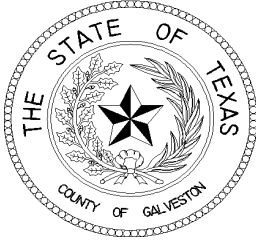
Account Number				Description		Invoice Amount
2950 411050 4301030				We bill you for the COVID-19 Testing for the month of November 2020.		\$9,800.00
				If you have any questions regarding your invoice please call James Gentile 409-770-5543		
				Prepared By: Lisa McCabe		
Current	Over 30 days	Over 60 Days	Over 90 days	Customer Number	Total Amount	\$ 9,800.00
\$9,800.00	\$ -	\$ -	\$ -	A00080	Due	

Please mail a copy of this invoice with your remittance to the above address and make checks payable to County of Galveston

Randall Rice, County Auditor

GALVESTON COUNTY, TEXAS

ACCOUNTS RECEIVABLE ENTRIES



BATCH ID	R2100340
ACCOUNTING DATE	November 30, 2020
PEID #	A00080
INVOICE #	AR210340
DATE PREPARED	December 7, 2020
DATE POSTED	December 7, 2020

DESCRIPTION	ACCOUNT NUMBER	DEBIT	CREDIT
COVID-19 RESPONSE RELIEF FD	2950		
	COVIDTEST		
ACCOUNTS RECEIVABLE	2950 000000 1150001	9,800.00	
FEDERAL GRANT REVENUE	2950 411050 4301030		9,800.00
TO SETUP RECEIVABLE FOR CITY OF LA MARQUE FOR THE COVID-19 TESTING FOR THE			
MONTH OF NOVEMBER 2020			
PREPARED BY: Lisa McCabe			
ENTRY REVIEWED BY:/DATE 12.7.2020 Job #5458079			
ENTRY APPROVED BY:/DATE			

Billing Period
11/01/2020 - 11/30/2020

Cost Per Test
\$100.00

Cost Per Test
\$52.00

City	NASAL Test Count	Antibody Test Count	Sub-Total Nasal Swab	Sub-Total Antibody	Total \$\$\$
Bayou Vista	2	0	\$200.00	0	\$200.00
Clear Lake Shores	1	0	100	0	100
Dickinson	213	0	\$21,300.00	0	\$21,300.00
Friendswood	91	2	\$9,100.00	\$104.00	\$9,204.00
Galveston	426	3	\$42,600.00	\$156.00	\$42,756.00
Hitchcock	50	0	\$5,000.00	0	\$5,000.00
Jamaica Beach	2	0	\$200.00	0	\$200.00
Kemah	30	0	\$3,000.00	0	\$3,000.00
La Marque	98	0	\$9,800.00	0	\$9,800.00
League City	310	0	\$31,000.00	0	\$31,000.00
Santa Fe	70	0	\$7,000.00	0	\$7,000.00
Texas City	295	1	\$29,500.00	\$52.00	\$29,552.00
Tiki Island	0	0	0	0	0
					\$159,112.00

SORT ORDER: Set ID then by CR-REF

Fully Qualified Account No. / Pr	Echo Fully Qualified Account N	Fin Code	Ref Dt	Invoice Number	Def. Plan	Tax Cd &	Amt	Rec#
Amount	Description	Prep ID	Due Dt	Sec Reference	Int. Rate	Tax Cd &	Amt	
ID & Text Ptr & Format	Name		Bill Dt	Product ID	Disc.Term	Duty Cd &	Amt	
Div & Type & Misc & Post Code	Fee Code	Rel. Cd.	Qty.	Reference Amt.	Disc. Amt	Chg. Cd &	Amt	
=====	=====	=====	=====	=====	=====	=====	=====	=====
2950411050-4301030	COVID-19 Testin Interlocal Agr		11/30/20	AR210340	0		0.00	1
9,800.00	11/20 COVID testing	MCCABEL	01/07/21		0.00		0.00	
A00080 NONE IB	CITY OF LA MARQUE		12/07/20		0.0000		0.00	
ARBL T AUAR 01	COVIDTEST		1.00000	9,800.00	0.00		0.00	

System Total

Set ID: R2100340 System Computed Total: 9,800.00 User Computed Total: 9,800.00 TOTALS MATCH

GRAND TOTAL System Computed Total: 9,800.00 User Computed Total: 9,800.00 TOTALS MATCH

Final Budget Check

No Budget Errors



CITY COUNCIL AGENDA FORM

Meeting Date: December 14, 2020
Prepared by: Derra Purnell

Agenda item: 6a
Reviewed by: Charlene Warren
Charles Jackson

Department: Development Services

AGENDA ITEM DESCRIPTION: Discussion relating to approving final plat for Mainland Partial Replat No. 1 located near 601 Delany Road, La Marque, Texas

X

ATTACHMENTS FOR REFERENCE

1. Planning and Zoning Commission Report
2. Recommendation letter from Adico and final plat

STAFF BRIEFING:

- This final plat consolidates several lots into one for a project located near 601 Delany Road
- Adico and Planning and Zoning Commissions recommended approval of this final plat subject to the conditions that: (1) Applicant provides updated city planning letter showing owner and encumbrances; and (2) Applicant provides original tax certificates prior to recordation of plat

HISTORY:

December 7, 2020 - Recommended approval by Planning and Zoning Commission

September 15, 2020 - Approval of Preliminary Plat by City Council

September 15, 2020 - Recommended approval of preliminary plat by Planning and Zoning Commission

TARGET IMPLEMENTATION: Plat can be recorded once conditions are met

SIGNIFICANT ACTION DATES: N/A

ACTION:

- | | |
|--|---|
| ☐ Ordinance | ☐ Resolution |
| ☐ Special Presentation | ☐ Proclamation |
| ☐ Finance Report | ☐ Public Hearing |
| ☒ Other - Plat | |
| ☒ Mark if this item does not conflict with any Resolution, Ordinance or City Charter, policies, procedures | |

Cost Details:

Budgeted	
Actual Bid	
Estimated Expenditure	
Acct. Name(s)	
Line Item #	
Other Funding	



CITY COUNCIL AGENDA FORM

STAFF'S RECOMMENDATION: Recommend to approve final plat for Mainland Partial Replat No. 1 subject to the conditions that: (1) Applicant provides updated city planning letter showing owner and encumbrances; and (2) Applicant provides original tax certificates prior to recordation of plat

FISCAL IMPACT: N/A



City of La Marque Planning & Zoning Commission

COMMISSION REPORT

P&Z Meeting Date: December 7, 2020

Agenda Item: Discussion / possible action regarding a plat application for Mainland Partial Replat No. 1 near 601 Delany Road

Item Type: Plat - Final plat

Standard for Approval:

Plats that comply with the requirements of City Code Chapter 41 and Chapter 212 of the Texas Local Government Code must be approved. Preliminary plats will always be approved with conditions because they will not comply with all of the requirements by nature of being a preliminary plat. Plats that do not comply with the requirements and need major changes will be denied and the reasons stated.

References: City Code Chapter 41;
Chapter 212, Texas Local Government Code

Public comments: None

Commission Action:

Recommended Approval of Mainland Partial Replat 1 Final Plat, subject to the conditions that:

- 1) Applicant provides updated city planning letter showing owner and encumbrances; and
- 2) Applicant provides original tax certificates prior to recordation of plat.

Thursday, December 3, 2020

Oanh Nguyen
Windrose Land Surveying
11111 Richmond Ave., Suite 150
Houston, TX 77082

Re: Mainland Partial Replat No. 1 Final Plat
Letter of Recommendation to Approve with Conditions-REVISED
Adico, LLC Project No. 18100-2-055

Dear Ms. Nguyen;

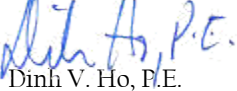
On behalf of the City of La Marque, Adico, LLC has reviewed the fourth submittal of Mainland Partial Replat No. 1, a final replat, received on or about December 3, 2020.

Based on our review, we recommend approving the final plat as submitted on December 3, 2020 subject to the following conditions:

1. Provide City Planning Letter confirming ownership and encumbrances
2. Provide Lienholder Subordination Agreement, if required
3. Provide original tax certificates confirm all taxes have been paid

Should you have any questions, please do not hesitate to call our office.

Sincerely,
Adico, LLC



Dinh V. Ho, P.E.
TBPE Firm No. 16423

Cc: Derra Purnell, City of La Marque, d.purnell@cityoflamarque.org
File: 18100-2-055



CITY COUNCIL AGENDA FORM

Meeting Date: December 14, 2020

Prepared by: Derra Purnell

Agenda item: 6b

Reviewed by: Charlene Warren

Charles Jackson

Department: Development Services

AGENDA ITEM DESCRIPTION: Discussion relating to adopting Ordinance No. **O-2020-0021**, changing the zoning district for property at or near 714 Bayou Road from (C-2) Restricted Commercial to (C-1) General Commercial **THIS IS THE FIRST READING**

X

ATTACHMENTS FOR REFERENCE

1. Ordinance
2. Planning and Zoning Commission report
3. Zoning map excerpts

STAFF BRIEFING:

- Planning & Zoning Commission issued a final report and recommended approval of this zone change from (C-2) Restricted Commercial to (C-1) General Commercial
- Notice of public hearing was provided to all property owners within 200 feet as required by law and a public hearing was held before the Commission on December 7, 2020
- This is a new business to La Marque
- Opaque fencing in compliance with City ordinance is required
- The business will use the existing building

HISTORY:

December 7, 2020 - Recommended approval by Planning & Zoning Commission

TARGET IMPLEMENTATION: January 11, 2020

SIGNIFICANT ACTION DATES: N/A

ACTION:

- | | |
|--|---|
| ☒ Ordinance | ☐ Resolution |
| ☐ Special Presentation | ☐ Proclamation |
| ☐ Finance Report | ☐ Public Hearing |
| ☒ Other - Plat | |
| ☒ Mark if this item does not conflict with any Resolution, Ordinance or City Charter, policies, procedures | |

Cost Details:

Budgeted	
Actual Bid	
Estimated Expenditure	
Acct. Name(s)	
Line Item #	
Other Funding	



CITY COUNCIL AGENDA FORM

STAFF'S RECOMMENDATION: Recommend to adopt Ordinance No. **O-2020-0021,**
THIS IS THE FIRST READING

FISCAL IMPACT: None

ORDINANCE NO. O-2020-0021

AN ORDINANCE OF THE CITY COUNCIL OF LA MARQUE, TEXAS AMENDING THE CITY ZONING MAP AND COMPREHENSIVE PLAN BY CHANGING THE ZONING DISTRICT OF CERTAIN PROPERTY LOCATED AT OR NEAR 714 BAYOU ROAD, LA MARQUE, TEXAS, FROM (C-2) RESTRICTED COMMERCIAL TO (C-1) GENERAL COMMERCIAL; PROVIDING A PENALTY IN AN AMOUNT NOT TO EXCEED \$2,000 FOR EACH VIOLATION; MAKING OTHER PROVISIONS RELATED TO THE SUBJECT; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, Nick Falcon (the "Owner") submitted an application for the City to amend the zoning district of Owners' property located at or near 714 Bayou Road, La Marque, Texas, more specifically described as shown in Exhibit "A" (the "Property"); and

WHEREAS, the Zoning Commission provided notice to all property owners within 200 feet and conducted a public hearing on a preliminary report, then issued a final report and recommended approval to City Council on December 7, 2020; and

WHEREAS, the City Council conducted, in the time and manner required by law, a public hearing on the proposal to change the zoning for the Property; and

WHEREAS, the City Council finds that the proposed change in zoning district is consistent with the City's comprehensive plan, and that the comprehensive plan and zoning map of the City should be amended to include the requested change in zoning district for the property;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LA MARQUE, TEXAS:

Section 1. That the adopted zoning map of the City is amended by changing the zoning district applicable to the property, as described in Exhibit A to this Ordinance, incorporated by reference for all purposes, from (C-2) Restricted Commercial to (C-1) General Commercial.

Section 2. The City's comprehensive plan is amended in accordance with this Ordinance.

Section 3. Penalty. As provided in Section 71-3 of the City Code, Any person who shall violate any of the provisions of this ordinance or who shall fail to comply therewith or with any of the requirements t hereof, or who shall erect or alter any buil ding, or who shall commence to erect or alter any building in violation of any detailed statement of plan submitted or approved t hereunder, shall for each violation or noncompliance be deemed guilty of a misdemeanor , and upon conviction, shall be fined as provided in section 1-7 of the City Code. The owner of that building or premises or part thereof where anything in violation of this chapter shall be placed or shall exist, and any architect, builder, contractor, agent or corporation employed in connection therewith who may have assisted in the commission of any such violation shall be subject to the penalties herein provided.

Section 4. Repeal. This ordinance is intended to be cumulative and shall not repeal any provision of a previous ordinance or City Code provision, except to the extent that a provision is inconsistent and cannot be reconciled with this ordinance.

Section 5. Severability. In the event any clause, phrase, provision, sentence) or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it is the intention of the City Council that the invalidity or unconstitutionality of the one or more parts shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision other than the part declared to be invalid or unconstitutional; and the City Council of the City of La Marque, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

Section 6. Publication and Effective Date. This ordinance shall be effective immediately upon adoption, public hearing in accordance with Section 2.19 of the City Charter, and publication of this ordinance or a caption that summarizes the purpose of this ordinance and the penalty for violating this ordinance in accordance with Chapter 52 of the Texas Local Government Code and Article II of the City Charter.

PASSED AND APPROVED by the City Council of the City of La Marque on First Reading this ____ day of _____ 2020; and

PASSED, APPROVED, AND ADOPTED by the City Council of the City of La Marque on Second and Final Reading this ____ day of _____, 2020.

CITY OF LA MARQUE, TEXAS

Bobby Hocking, Mayor

ATTEST:

Robin Eldridge, TRMC, City Clerk

APPROVED AS TO FORM:

Derra Leigh Purnell, City Attorney

Exhibit "A" – Property Description

The North 172.5 feet of the East 413.1 feet of Lot Eighteen (18) of Division "E" of THE COOK & STEWART SUBDIVISION, out of the John D. Moore League, in Galveston County, Texas, according to the map or plat thereof of said Cook & Stewart Subdivision of record in Volume 81, Page 526, In the Office of the County Clerk of Galveston County, Texas.



City of La Marque Planning & Zoning Commission

COMMISSION REPORT

P&Z Meeting Date: December 7, 2020

Agenda Item: Discussion / possible action to issue a final report and provide a recommendation to City Council on a request to change the zoning district from (C-2) Restricted Commercial to (C-1) General Commercial for 714 Bayou Road, La Marque, Texas

Item Type: Zone change

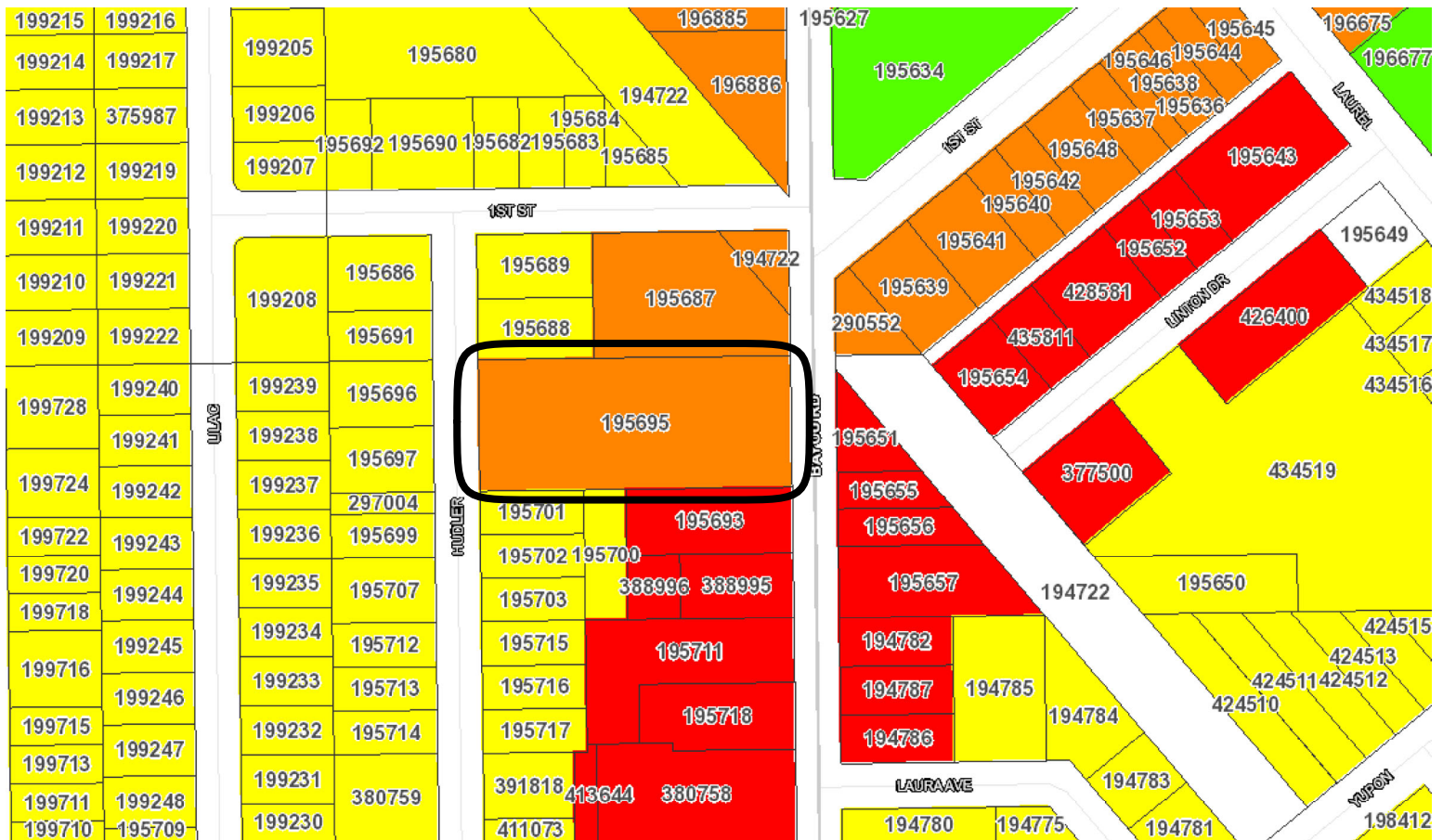
History: None

Standard for Approval: “[E]ither the general welfare of the city affected by the area to be changed will be enhanced, or that the property is unusable for the purposes allowed under existing zoning.” See City Code Sec. 71-26(k).

References: City Code Chapter 71;
Chapter 211, Texas Local Government Code

Public comments: None

Commission Action: Issued a final report and recommended approval of a zone change from (C-2) Restricted Commercial to (C-1) General Commercial for 714 Bayou Road, La Marque, Texas (*Passed 3-1*)





CITY COUNCIL AGENDA FORM

Meeting Date: December 14, 2020

Prepared by: Suzy Kou

Agenda item: 6c

Reviewed by: Charlene Warren/

Charles Jackson

Department: Finance

AGENDA ITEM DESCRIPTION: Discussion relating to adopting Resolution No. **R-2020-0023**, TCAP's professional services agreement and GEXA Energy's commercial electric service agreement for power to be provided on and after January 1, 2023

X

ATTACHMENTS FOR REFERENCE

1. Resolution
2. TCAP agreement
3. GEXA agreement
4. SHP Program

STAFF BRIEFING:

- Current agreements use fixed negotiated rate during the life of the contract terms
- Proposed agreements use Strategic Hedging Program (SHP) which is also designed to achieve the same goal of best available energy pricing
- Differences: Current approach is negotiation on best rate and locking in for few years. Proposed SHP energy procurement approach will be based on receiving competitive bids from suppliers with acceptable credits via a request for proposal process periodically. Bid results will be reported to TCAP members periodically on a blind basis. TCAP will not receive any commissions, fees, or any other reimbursement from suppliers participating in the bidding process.
- This new approach requires preparation two years in advance
- Advantage of this approach allows for us to capture the best pricing periodically resulting from continuous competition among suppliers

HISTORY:

March 2016 - City executed current contract with GEXA which will expire by December 31, 2022

January 2018 - Council approved Resolution to allow TCAP to negotiate and act on behalf of the city to purchase electricity at the best rate through December 2022

TARGET IMPLEMENTATION: **January 1, 2023**

SIGNIFICANT ACTION DATES: N/A



CITY COUNCIL AGENDA FORM

ACTION:

- | | |
|--|--|
| ☐ Ordinance | ☒ Resolution |
| ☐ Special Presentation | ☐ Proclamation |
| ☐ Finance Report | ☐ Public Hearing |
| ☒ Other | |
| ☒ Mark if this item does not conflict with any Resolution, Ordinance or City Charter, policies, procedures | |

Cost Details:

Budgeted	N/A to FY 2021
Actual Bid	Varies
Estimated Expenditure	N/A to FY 2021
Acct. Name(s)	
Line Item #	
Other Funding	

STAFF'S RECOMMENDATION: Recommend to adopt Resolution No. **R-2020-0023**, TCAP's professional services agreement, and GEXA Energy's commercial electric service agreement for power to be provided on and after January 1, 2023

FISCAL IMPACT: N/A

RESOLUTION NO. R-2020-0023

RESOLUTION OF THE CITY OF LA MARQUE, TEXAS ADOPTING TCAP'S PROFESSIONAL SERVICES AGREEMENT AND GEXA ENERGY'S COMMERCIAL ELECTRIC SERVICE AGREEMENT FOR POWER TO BE PROVIDED ON AND AFTER JANUARY 1, 2023

WHEREAS, the City of La Marque is a member of Texas Coalition For Affordable Power, Inc. ("TCAP"), a non-profit, political subdivision corporation of the State of Texas; and

WHEREAS, TCAP has previously arranged for the City to purchase power through Gexa Energy with a contract set to expire December 31, 2022; and

WHEREAS, TCAP has designed a new procurement strategy that will involve TCAP initially committing to purchase power two years in advance of delivery on behalf of its members who desire participation in a Strategic Hedging Program ("SHP") that will involve a series of monthly competitive auctions; and

WHEREAS, TCAP has prepared a Professional Services Agreement ("PSA"), attached as Exhibit A, that, in addition to enumerating services and benefits to members of TCAP, provides TCAP with specific authority to procure power in the wholesale market on behalf of members who choose to participate in the SHP; and

WHEREAS, approval of the PSA is a necessary, but not sufficient, prerequisite to participation in the SHP; and

WHEREAS, the PSA is a relational contract that defines services provided by TCAP to members regardless of whether a member decides to commit to the SHP; and

WHEREAS, the industry-standard retail contract is a Commercial Electric Service Agreement ("CESA") offered by a Retail Electric Provider ("REP"); and

WHEREAS, TCAP has negotiated modifications to the current CESA between the City and Gexa Energy to reflect participation in the SHP; and

WHEREAS, the CESA that will facilitate participation in the SHP effective for power deliveries in and beyond 2023 (attached as Exhibit B) will need to be approved and signed prior to October 30, 2020; and

WHEREAS, the City desires to participate in the SHP.

THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LA MARQUE, TEXAS:

SECTION 1. That the City Council approves the attached agreements and the City Manager is authorized to sign Exhibit A, TCAP's Professional Services Agreement,

and Exhibit B, Gexa Energy's CESA, and send the agreements to TCAP, 15455 Dallas Parkway, Ste. 600, Addison, TX 75001.

PASSED, APPROVED AND ADOPTED by City Council of the City of La Marque on this _____ day of _____, 2020

CITY OF LA MARQUE, TEXAS

Bobby Hocking, Mayor

ATTEST:

Robin Eldridge, TRMC, City Clerk

APPROVED AS TO FORM:

Derra Leigh Purnell, City Attorney

Exhibit A

PROFESSIONAL SERVICES AGREEMENT BETWEEN
CITY OF LA MARQUE, TEXAS AND TEXAS COALITION FOR AFFORDABLE
POWER, INC.

This Professional Services Agreement (“AGREEMENT”) is made and entered by and between Texas Coalition for Affordable Power, Inc. (“TCAP”), a non-profit, political subdivision corporation, and the City of La Marque, Texas, a home-rule municipality (“MEMBER”), a TCAP member.

SECTION 1 DURATION:

This AGREEMENT becomes effective as of signing by MEMBER and shall remain effective as long as MEMBER is being served by TCAP and MEMBER’s electric load included in a current TCAP procurement.

SECTION 2 PURPOSE OF AGREEMENT:

The purpose of this AGREEMENT is to define services and obligations of TCAP to MEMBER and obligations of MEMBER to TCAP and other members. In furtherance of this AGREEMENT, MEMBER will enter into a Commercial Electric Service Agreement (“CESA”) with a retail electric provider (“REP”) selected by TCAP pursuant to the terms set forth herein; provided that nothing in this AGREEMENT is intended to alter the price or other terms of MEMBER’s current CESA in effect through December 31, 2022.

SECTION 3 OBLIGATIONS OF TCAP TO MEMBER:

MEMBER authorizes TCAP to contract for the purchase of energy for MEMBER in the wholesale market from an energy manager selected by TCAP (“Energy Manager”) and to select an acceptable, cost-beneficial REP to serve MEMBER’s electric accounts. TCAP shall provide procurement services, which services shall consist of securing wholesale power for MEMBER through an alternative procurement strategy, such as TCAP’s Strategic Hedging Program (“SHP”), as may be authorized and defined by TCAP’s Board of Directors. If MEMBER has provided to TCAP an Authorized Election Form, TCAP’s procurement services to MEMBER shall also consist of arranging fixed-price, fixed-term offers to MEMBER following solicitation of competitive offers. TCAP consultants and attorneys will negotiate terms and conditions of all contracts, monitor performance of Energy Managers and REPs, work to avoid and remedy problems that may be encountered by MEMBER where possible, assist MEMBER with wires company issues, and represent MEMBER in energy related matters before State agencies, the courts or legislature. TCAP will provide additional customer services to MEMBER that are defined in SECTION 5.

SECTION 4 OBLIGATIONS AND RIGHTS OF MEMBER:

MEMBER will honor the terms of its CESA and promptly pay or promptly dispute invoices from its REP. MEMBER will comply with the confidentiality and non-disclosure obligations contained in its CESA and Section 7 of this AGREEMENT. MEMBER will

designate one or more individuals to receive notices and updates from TCAP and will promptly update contact information. MEMBER will pay aggregation fees to support the non-profit functions of TCAP assessed annually by the TCAP Board of Directors and recovered as part of the energy charges paid to REP. Also, MEMBER will pay or receive refunds equal to the Quarterly Adjustment and the Annual Adjustment mutually agreed upon by TCAP and the Energy Manager to address certain variable costs and charges, including costs imposed by ERCOT, such payment or receipt of funds subject to the reserve account as further described herein. TCAP members will fund, and TCAP will maintain and administer, a reserve account to facilitate the reconciliation of any Quarterly Adjustments or Annual Adjustments by collecting any excess amounts paid and/or paying any deficient amounts incurred (as possible). The reserve account balance will be maintained at a minimum level to cover anticipated future needs for up to two (2) years. The TCAP Board may vote to refund to members amounts in excess of future anticipated needs. Any monies remaining in the reserve account at the dissolution of TCAP will be refunded to current membership at the time of dissolution. TCAP is owned and controlled by its members and is governed by a Board of Directors consisting of employees or elected officials of members. Consistent with TCAP's Bylaws, each MEMBER has a right to nominate its representative to serve on the Board of Directors and has a right to vote in annual elections of Board members. MEMBER has a right to attend or monitor each Board meeting. TCAP has a financial audit performed each year and MEMBER has a right to a copy of the annual audit upon request.

SECTION 5 TCAP SERVICES TO MEMBER:

A. Procurement of Energy Supplies and REP Services

1. TCAP Procurement Services and Capabilities

TCAP will assist prospective members in reviewing market conditions and in estimating the most price opportune time to contract for energy supplies. TCAP will work with MEMBER to achieve a competitive price that balances supply security and risk tolerance while maintaining superior billing and customer services. As a political subdivision corporation, offering electricity procurement to political subdivisions, TCAP has the ability to procure wholesale energy supplies and REP services separately to secure the most effective combination of competitively priced energy supplies and superior billing and customer services. TCAP may utilize either wholesale or retail sources of power, or some combination of both. TCAP may utilize multiple suppliers with different generation resources. TCAP will solicit bids from multiple sources for energy supplies. TCAP aggregates the load of all members to maximize clout in negotiating contract terms. TCAP's objective in negotiations with suppliers is to continue obtaining favorable terms regarding band widths for annual usage based on total load of all members (rather than based on MEMBER's individual load) and to minimize fees for adding or deleting accounts. TCAP will monitor the wholesale and retail markets for favorable hedging opportunities. TCAP will also monitor, evaluate and issue requests for proposals for power

development opportunities beneficial to its MEMBERS, including renewable projects (each, a “Power Project”).

2. MEMBER Procurement Options

If MEMBER elects a fixed-price contract for a fixed period by submitting an Authorized Election Form, TCAP will function as MEMBER’S agent in the wholesale energy marketplace in soliciting, evaluating and negotiating each such fixed-price contract. Absent an election, MEMBER shall participate in other procurement strategy options offered by TCAP, such as TCAP’s SHP, and TCAP will function as MEMBER’s electric energy procurer. As such, TCAP will (i) oversee the Energy Manager, (ii) will direct the Energy Manager to solicit wholesale energy market quotes, (iii) will cause the Energy Manager to transact at the most favorable executable market quotes and (iv) will negotiate and develop the Energy Price in MEMBER’S CESA (the “CESA Energy Price”). The CESA Energy Price shall be developed and agreed upon by TCAP, the Energy Manager and the REP and shall include the wholesale energy market transactions as well as Energy Manager’s estimate of any non-fixed charges, including zonal congestion charges, ancillaries service charges, and other charges in connection with MEMBER’S load. If MEMBER elects to purchase power from a Power Project solicited and chosen by TCAP via a competitive RFP process (or other similar process), TCAP will function as MEMBER’S electric energy procurer, and will direct the Energy Manager to include the value of the power procured from such projects in the development of MEMBER’S CESA price.

B. Customer and Billing Services Provided by TCAP

1. REP Portal

TCAP consultants oversee the development and presentation of the REP’s portal for TCAP members; the REP will be responsible for operation of the portal. TCAP provides training and assistance regarding portal use.

2. REP Customer Service

TCAP negotiates with the REP regarding service standards and annually reviews REP performance. TCAP maintains a right to replace a REP for unsatisfactory performance without affecting the price of wholesale power, so long as the replacement REP has a credit rating acceptable to the Energy Manager. TCAP continuously monitors customer billings and will alert both the REP and MEMBER, when appropriate, of any billing errors and the adjustments needed to ensure accurate and reliable billings to MEMBER. TCAP will advocate on behalf of MEMBER when needed to resolve billing or customer service issues. TCAP will review customer billings and make MEMBER aware of inactive accounts that MEMBER may be able to disconnect to save monthly charges.

3. TCAP Assistance with Budgets and Required Filings and Assistance with TDSP Issues

TCAP monitors Public Utility Commission (“PUC”) and ERCOT activity and will provide MEMBER a forecast of changes in non-by passable charges that may impact MEMBER’s annual budget estimates. TCAP will prepare an annual electricity cost estimate for MEMBER. TCAP will assist MEMBER in preparation of energy related reports that may be necessary for MEMBER to file in response to legislative or agency mandates. TCAP will assist MEMBER in understanding non-bypassable charges included in REP invoices, and assist in resolving issues caused by errors of MEMBER’S Transmission and Distribution Service Provider (“TDSP” aka “wires company”).

4. Information Services

TCAP maintains a member web site, www.tcaptx.com. In addition to regular blog postings on energy news relevant to MEMBER, TCAP has prepared and posted major reports on the history of deregulation in Texas and a history of ERCOT. TCAP consultants continuously monitor the Nymex gas market, ERCOT energy market, and economic conditions that may affect MEMBER, as well as activities at the PUC and ERCOT. Important trends are noted in consultant reports to the Board of Directors and are attached to Board Minutes. TCAP’s Executive Director prepares and distributes a monthly newsletter and coordinates TCAP activities with various city coalitions and Texas Municipal League (“TML”). The Executive Director monthly newsletters will also include important or trending issues in the energy markets.

5. Demand Response, Distributed Generation and Cost Savings Strategy

TCAP will work with relevant service providers to make available to MEMBER competitive demand reduction programs that facilitate MEMBER’s participation in TDSP and ERCOT cost reduction strategies approved by the PUC. Upon request, TCAP will monitor and evaluate demand reduction program performance metrics. TCAP will assist MEMBER in reviewing, analyzing and developing distributed generation programs that can reduce wires and energy costs and/or provide backup power to specific facilities. TCAP will assist MEMBER in meeting renewable energy goals established by MEMBER, including behind-the-meter solar projects and local wind projects.

6. Reserved.

7. Strategic Hedging

To the extent that there is sufficient interest and commitment of load of TCAP members within an ERCOT zone, and to the extent MEMBER has not elected a fixed-price contract for a fixed period, MEMBER will perpetually (subject to potential charter or ordinance constraints on length of contracts) commit to two-year participation obligations. MEMBER may terminate participation in the SHP, without energy price penalties and with

minimal other termination fees, by providing sufficient notice as set forth herein (Section 6). A SHP price will be determined at least 9 months prior to the effective date of the price by averaging the winning bids from periodic competitive auctions that occur throughout the 24 months preceding the effective date. TCAP will direct Energy Manager to conduct the periodic competitive auctions. TCAP will have the right to audit the auction results. The auction process will be designed to identify competitively priced energy supplies from a variety of creditworthy suppliers, resulting in prices that are rarely, if ever, significantly above prevailing market prices and that should generally be less than pricing for long-term fixed priced contracts (when evaluated from a common contract start date and term). Designed to take advantage of the characteristics of the nation's well supplied energy markets, the SHP will also be flexible enough to respond to market changes when and if they occur in the future. Participation in the SHP may be viewed as a series of 24 -month forward year-to-year contracts for as long as desired by MEMBER. If MEMBER participates in the SHP, MEMBER agrees that TCAP is authorized to direct Energy Manager to procure electric energy in the wholesale market on MEMBER's behalf and that TCAP is authorized to commit MEMBER's load to periodic competitive auctions.

SECTION 6 MEMBER RIGHT OF TERMINATION:

A. Fixed-Term, Fixed-Price Contract

MEMBER may terminate a CESA prior to the end-of-term specified in a contract subject to payment of "Liquidated Damages" prescribed in MEMBER's CESA. If MEMBER commits to a fixed multi-year term, fixed-price contract and wants to terminate the agreement prior to the end of the fixed multi-year term, liquidated damages will be based on the differential in the price of electric energy futures contracts used to support the fixed-price agreement and the price of comparable electric energy contracts at time of termination and shall also include damages prescribed herein and in the CESA, as applicable. If electric energy prices are lower at the point of termination than they were at time of contracting, MEMBER should expect to pay energy price damages upon early termination. In any event, any termination payment will be calculated and assessed in accordance with MEMBER's CESA.

B. Strategic Hedging Program

Since the SHP is based on a series of one-year term contracts, MEMBER is entitled to exit the program so long as notice of termination can be given prior to inclusion of MEMBER's load in the competitive auction process for a future year's price. TCAP will periodically notify MEMBER of expected procurement schedules and provide no less than 90 days prior notice of any upcoming solicitation, and MEMBER may notify TCAP that it wants to exclude its load from the competitive auction process by giving notice at least 60 days prior to the next procurement date. Termination of involvement in SHP without appropriate notice will require calculation of damages as prescribed by CESA under Edison Electric Institute ("EEI") principles with the intent of making the REP and Energy Manager whole for the termination. Liquidated damages will be based on the differential in the price

of electric energy futures contracts used to support the SHP price and the price of comparable electric energy contracts at time of termination and shall also include damages prescribed herein and in the CESA, as applicable. If electric energy prices are lower at the point of termination than they were at time of contracting, MEMBER should expect to pay energy price damages upon early termination. In any event, any termination payment will be calculated and assessed in accordance with MEMBER's CESA.

C. Participation in Power Projects

If MEMBER has chosen to purchase power from a Power Project through TCAP, in accordance with a signed Project Addendum attached to MEMBER'S CESA, MEMBER's termination rights with respect to its commitment to purchase power from the Power Project shall be contained in the Project Addendum.

SECTION 7 CONFIDENTIALITY:

MEMBER is a governmental body subject to public information laws, including Chapter 552 of the Texas Government Code. If MEMBER receives a valid request under applicable public information laws for information related to this AGREEMENT or its CESA, it shall provide TCAP notice of the request including a description the information sought prior to MEMBER's release of information so that TCAP has the opportunity to determine whether such information is subject to an exception as trade secret, competitive, commercial, or financial information. With the exception of the preceding disclosures pursuant to public information laws, a Party (that party, the "Receiving Party") shall keep confidential and not disclose to third parties any information related this AGREEMENT, except for disclosures to Authorized Parties or as otherwise required by law; and provided that MEMBER authorizes TCAP to provide Energy Manager and REP with any relevant information concerning MEMBER's account, usage and billings. The provisions of this Section 7 apply regardless of fault and survive termination, cancellation, suspension, completion or expiration of this AGREEMENT for a period of two (2) years. "Authorized Parties" means those respective officers, directors, employees, agents, representatives and professional consultants of MEMBER and TCAP and each of their respective affiliates that have a need to know the confidential information for the purpose of evaluating, performing or administering this AGREEMENT.

SECTION 8 PARAGRAPH HEADINGS:

The paragraph headings contained in this AGREEMENT are for convenience only and shall is no way enlarge or limit the scope or meaning of the various and several paragraphs.

SECTION 9 COUNTERPARTS:

This AGREEMENT may be executed in multiple counterparts, each of which shall be deemed an original, and all of which shall constitute but one and the same instrument.

SECTION 10 DEFINITIONS:

“Annual Adjustment” shall mean either a credit to MEMBER for the over-collection of funds, or a charge to MEMBER for under-collection of funds, related to Power Project settlements, if applicable. For those MEMBERS that participate in SHP, the Annual Adjustment shall also include (i) adjustments related to the loss factor for each specific ERCOT zone and (ii) adjustments related to load reconciliation as determined by TCAP, the Energy Manager and the REP.

“Energy Manager” means the wholesale market participant selected by TCAP to conduct SHP procurements at TCAP’s direction, in accordance with Section 5A and Section 7 of this Agreement. The Energy Manager may sell all or a portion of the required wholesale energy to TCAP or TCAP’s REP.

“Power Project” means a power generation project identified by TCAP to supply electric energy to one or more TCAP Members.

“Project Addendum” means the Addendum for a Power Project, if any, signed and attached as an Exhibit to MEMBER’S CESA.

“QSE Services Fee” means the QSE Services Fee in affect during the Delivery Term, as agreed between TCAP and Energy Manager.

“Quarterly Adjustment” shall mean either a credit to MEMBER for the over-collection of funds, or a charge to MEMBER for under-collection of funds, related to (i) ERCOT zonal congestion charges and (ii) ancillary services charges and other charges imposed by governmental agencies or ERCOT upon wholesale suppliers or REPs under statutes, regulations or courts for services within ERCOT zones. Said charges or refunds will be proportional to MEMBER’s relative contribution to TCAP load within specific ERCOT zones.

“Retail Electric Provider” or “REP” means the Retail Electric Provider that is party to (i) the REP Services Agreement with TCAP and (ii) the CESA between itself and MEMBER for the provision of retail electric service.

“Strategic Hedging Program” or “SHP” means an energy procurement strategy approved by TCAP’s Board of Directors, overseen by TCAP’s designated consultants, and administered by TCAP’s appointed Energy Manager, whereby wholesale energy is solicited and procured at agreed upon intervals, as directed by TCAP.

EXECUTED on this the _____ day of _____, 20____.

MEMBER:

By: _____

Printed Name: _____

Title: _____

TCAP:

By: _____

Printed Name: _____

Title: _____

COMMERCIAL ELECTRICITY SERVICE AGREEMENT

This Commercial Electricity Service Agreement, including all of the Attachments, Schedules, and Exhibits, which are attached and incorporated (collectively, the **"Agreement"**), is entered into between Gexa Energy, LP (**"Gexa"**), a Texas limited partnership, and **the City of La Marque, Texas, a home-rule municipality** (**"Customer"**). Gexa and Customer may be referred to individually as a **"Party"** or collectively as the **"Parties"**.

SECTION 1: RETAIL ELECTRIC SALES AND SERVICES

1.1 Appointment and Scope. Customer appoints Gexa as its Retail Electric Provider (**"REP"**) for the ESI ID(s) served under this Agreement. Customer authorizes Gexa to: (i) act as Customer's REP for all purposes; and (ii) provide the services required of a REP including, without limitation, the procurement, scheduling and delivery of electricity throughout the Term to each of the ESI ID(s) in accordance with the terms set forth in this Agreement, including the Terms and Conditions of Service set forth in Attachment A. Customer's appointment imposes no other duties on Gexa other than those specified in this Agreement and the REP Services Agreement.

1.2 Agreement to Purchase. Customer shall purchase its electricity requirements from Gexa throughout the Term for each of the ESI ID(s) except as otherwise provided. The electricity and services Customer receives from Gexa is for Customer's exclusive proprietary use. Customer alone shall pay for electricity and services provided and for electricity and services Customer fails to take pursuant to its contractual obligations. If Gexa fails to deliver sufficient quantities of electricity to the TDSP for delivery to Customer or fails to schedule the delivery of sufficient quantities of electricity (collectively, a **"Scheduling Failure"**) the TDSP is obligated by law and by its tariff to deliver sufficient electricity to satisfy Customer's needs. If a Scheduling Failure occurs, Gexa shall financially settle, at no additional cost or expense to Customer, with its Qualified Scheduling Entity (as defined by ERCOT) for the purchase of electricity necessary to cover the Scheduling Failure.

1.3 Membership in TCAP. Customer is a current member of the Texas Coalition for Affordable Power, Inc. (**"TCAP"**), and has entered into the Professional Services Agreement (the **"PSA"**) authorizing the purchase of wholesale energy on behalf of the Customer by TCAP and/or TCAP's Energy Manager. Such wholesale energy purchases will affect the calculation of the Energy Price throughout the Term of this Agreement as described in Section 2. If, at any time during the Term, Customer elects to participate in a Power Purchase Agreement with a project to be developed for TCAP's members, and executes the Project Addendum for such project, then the Project Addendum will be attached hereto as Schedule I. Notwithstanding Customer's TCAP membership status, Customer agrees to fulfill all of its obligations under this Agreement, the PSA and, if applicable, the Project Addendum throughout the Term of this Agreement.

1.4 Term.

(a) Effective Date and Termination Date. Gexa shall provide retail electric service under this Agreement to each ESI ID beginning on the Effective Date and Terminating on the Termination Date, as further defined in this Section 1.4(a) (such period, the **"Term"**). The Effective Date will occur either (i) on the date occurring on or after the Expected Start Date stated in Attachment B on which each such ESI ID is enrolled with Gexa's service for any new customer, or (ii) if Customer is an existing customer then the Expected Start Date is the meter read date following the expiration of the Customer's prior Agreement with Gexa. Gexa shall continue to provide retail electric service to each ESI ID unless or until the Customer gives notice to TCAP and Gexa of its intent to terminate its membership with TCAP (**"Termination Notice"**). The Termination Date will occur on each respective ESI ID meter read date during the last month of the calendar year for which electricity has been purchased on Customer's behalf by either TCAP or the Energy Manager in accordance with the PSA prior to the Termination Notice, except that in no event will the Term exceed beyond December 31, 2037. For avoidance of doubt, the Termination Date for each respective ESI ID shall be the sooner to occur of (i) the meter read date occurring in the last month of the calendar year for which electricity has been purchased by either TCAP or the Energy Manager on behalf of the Customer prior to the Termination Notice or (ii) the meter read date occurring in December 2037. As a result of variations in the timing of the Effective Date described in this Section 1.4 the Term may include a partial calendar month in addition to the number of months set forth in Attachment B, if any.

(b) Delayed Effective Date. Gexa shall use commercially reasonable efforts to cause the Effective Date for each ESI ID to occur on the Expected Start Date. If the Effective Date for an ESI ID occurs more than 20 days after the Expected Start Date, Customer may provide Gexa with evidence of the amount of electricity purchased by Customer from its current REP in connection with that ESI ID during the period on and after the 21st day after the Expected Start Date until the Effective Date (the **"Delayed Effective Date Period"**), and the total amount paid by Customer to its current REP for the electricity it purchased during the Delayed Effective Date Period (the **"Delayed Effective Date Electricity Amount"**). Upon receipt of evidence from Customer Gexa shall calculate and provide Customer a credit against future purchases under this Agreement equal to the positive amount resulting from the following calculation: (a) the Delayed Effective Date Electricity Amount minus (b) the amount that Customer would have paid to Gexa pursuant to this

Agreement during the Delayed Effective Date Period for the same amount of electricity purchased by Customer from its current REP during that period in connection with the affected ESI ID(s); provided, that Gexa shall not be required to provide a credit with respect to any period during a Delayed Effective Date Period where the delay was caused by an event outside of Gexa's control.

(c) Service After Term. If, for any reason, service continues beyond the Term, it will be on a month-to-month basis, and the Agreement will continue in effect for the ESI ID(s) except that the Energy Price will be the greater of: (i) the Energy Price as set forth in Section 2.1 below, or (ii) the aggregate weighted average of the Market Rate (as defined herein) as determined for all of the ESI ID(s), for as long as service continues. If Customer has not switched from Gexa to another supplier at the expiration of the Term, Gexa shall serve Customer at the rate set forth in this Section for a minimum of 60 days. After those 60 days, Gexa may continue to serve Customer or terminate the Agreement and disconnect Customer.

1.5 Modifications to ESI IDs. Gexa shall work with Customer in good faith during the Term to reasonably accommodate and assist Customer with the management of its electricity needs. If at any time during the Term, Customer wants to i) add or delete one or more ESI IDs, ii) otherwise modify the ESI ID information as a result of a decision by Customer to open, close or sell a facility owned or leased by Customer, iii) expand an existing facility, or iv) increase an existing facility's metered load, then Customer shall provide written notice to Gexa of such change ("ESI ID Change Notice"). If such change to the ESI ID is expected to occur prior to the first month of any calendar year for which the Energy Price has been established as of the date of the ESI ID Change Notice, in accordance with Section 2.1 (a) of this Agreement, such notice shall include Customer's election of the "Special Load Threshold," as defined below, which will apply to such change in load. If, in Gexa's reasonable judgment, i) the addition is a separately metered load which does not exceed the applicable Special Load Threshold; or ii) does not result in a net increase in excess of the applicable Special Load Threshold for an existing facility, Gexa shall use commercially reasonable efforts to promptly implement such changes, including providing required notices to ERCOT. If the addition is a separately metered load which exceeds the applicable Special Load Threshold, or results in a net increase in excess of the applicable Special Load Threshold after consideration of any contemporaneous offsetting load decreases, Gexa shall provide service to that ESI ID and shall determine any incremental charge or credit to provide service to any changed ESI IDs. Gexa shall apply such charge or credit to the affected ESI IDs, after such charges have been reviewed by TCAP. "Special Load Threshold" shall mean additional peak demand that is reasonably expected during the first twelve months following commercial operations to exceed, at Customer's election, either (i) 0.25 MW at any time or an annual average load of 0.125 MW or (ii) 1.0 MW at any time or an annual average load of 0.5 MW. Gexa shall make periodic reports regarding changes to the billing status of any ESI ID(s) available to Customer and TCAP. Amendments that add or remove ESI ID(s) as a result of changes made pursuant to this section are incorporated into this Agreement, and are effective on the Effective Date for each ESI ID(s) added to this Agreement or the date that retail electric service for any removed ESI ID(s) ceases or is transferred to another REP.

SECTION 2: RETAIL ELECTRIC ENERGY SERVICE CHARGES

2.1 Energy Price.

(a) If Customer has elected to fix all or a portion of the Energy Price for a fixed term by providing an Authorized Election Form to TCAP in accordance with the PSA, the Energy Price shall equal the fixed price as determined by TCAP in accordance with the PSA, and the Authorized Election Form. Any portion of the Energy Price that is not fixed shall be noted in the Authorized Election Form, and shall be settled with Customer in accordance with Section 2.2 of this Agreement. If Customer has not made such an election, the Energy Price shall be determined in accordance with the PSA, as follows:

- (i) TCAP shall periodically solicit, or direct its designated Energy Manager to solicit, wholesale energy market quotes, and may direct the Energy Manager to transact at the lowest of the market quotes obtained for the purpose of serving customer's load, in accordance with the PSA (each such transacted quote, a **"Wholesale Transaction"**).
- (ii) Once TCAP has directed its Energy Manager to enter into Wholesale Transactions sufficient to serve Customer's load for a given calendar year, Energy Manager and TCAP shall establish the Energy Price for that Calendar Year in accordance with those procedures outlined in the PSA, which Customer hereby acknowledges it has reviewed and accepted. TCAP shall set the Energy Price for a given Calendar Year no later than nine (9) months prior to the start of such Calendar Year. If Customer elects to participate in a project and executes the Project Addendum, the Energy Price shall include an estimate of the Project Settlement for each month of the Calendar Year in accordance with the Project Addendum.

(b) For the purposes of Section 3 the Energy Price shall be converted to dollars per kWh.

2.2 Energy Price Adjustments.

- (a) Energy Manager shall have the right to reconcile the revenues received from the Customer with Energy Manager's Supplier Cost on (i) a quarterly basis, by determining the Quarterly Adjustment in the manner specified in the PSA and (ii) on an annual basis, by determining the Annual Adjustment in the manner specified in the PSA. The Quarterly Adjustment and Annual Adjustment may be either a charge or a credit, and shall be collected from or remitted to Customer, as appropriate, in the manner specified in the PSA.
- (b) TCAP and Energy Manager may mutually agree to fix certain component charges comprising Customer's Energy Price for a given Calendar Year, if TCAP determines that fixing these charges is likely to benefit Customer. Charges that are fixed by TCAP and Energy Manager for a given Calendar Year shall not be included in the calculation of either the Quarterly Adjustment or the Annual Adjustment for such Calendar Year, in accordance with the PSA.

2.3 Additional Pass-Through Charges. Gexa shall pass through and identify separately on Customer's bill with no mark-up Delivery Charges, Non-Recurring Charges, or Taxes that are not included in the Energy Price(s). All charges are exclusive of Taxes. Pass-Through charges may include charges related to amounts owed to Gexa and/or Wholesale Supplier in accordance with Section 1.3.

2.4 Tax Exempt Status. Customer shall provide Gexa with all required exemption certificates if Customer is exempt from paying any Taxes. Gexa shall not recognize an exemption without the exemption certificates and shall not be required to refund or credit previously paid Taxes unless the taxing entity sends the refund to Gexa. Gexa shall, however, assign to Customer any applicable claims for refund.

SECTION 3: BILLING AND PAYMENT

3.1 Billing and Payment. Gexa shall invoice Customer's accounts on a monthly basis and shall bill Customer on a consolidated basis for all ESI IDs upon Customer's request. Gexa shall provide a summary bill for all accounts and detailed information for each account. Customer shall remit payment within 30 days of receiving the invoice. Gexa shall base the invoice amount on actual data provided by ERCOT and the TDSP. If ERCOT or the TDSP does not provide actual data in a timely manner, Gexa shall use estimated data to calculate the invoice and, upon receipt of actual data, reconcile the charges and adjust them as needed in subsequent invoices.

3.2 Project Settlement Agent Services. Gexa shall remit the total Project Settlement to the Project on a monthly basis, in accordance with the REP Services Agreement.

3.3 Late Penalties, Interest on Overdue Payments, Invoice Disputes. If Customer fails to remit all undisputed amounts on or before the due date, interest will accrue on any due and unpaid amounts from the due date at a rate of one percent per month, or the highest rate permitted by law, whichever is less. If Customer disputes a portion of an invoice it shall provide Gexa a written explanation specifying the amount in dispute and the reason for the dispute within 20 days of the invoice date. If Customer does not provide timely notice, Customer shall owe all amounts by the due date. Notwithstanding the above, if Customer notifies Gexa of a disputed invoice, regardless of whether Customer has already paid the invoice, Gexa shall make records in its possession that are reasonably necessary for Customer to determine the accuracy of the invoice available to Customer during normal business hours; provided, however that neither party may request an adjustment or correction of an invoice unless written notice of such dispute is given within twelve months after the due date of such invoice; provided further, that such twelve month limit does not apply in the case of TDSP meter tampering charges first billed to Gexa that prevent Gexa from reasonably adjusting invoices prior to the twelve month period. In all cases, Gexa and Customer shall use good faith efforts to resolve disputes. In the event the Parties are unable to resolve a dispute within ten days of the notice date, either Party may begin legal proceedings to seek resolution. Any amounts determined owed shall be paid within three days after a decision.

3.4 Aggregator Fees. Pursuant to the REP Services Agreement between Gexa and TCAP, Gexa is obligated to pay TCAP an amount determined by multiplying a TCAP Aggregation Fee by the volume consumed in association with the ESI IDs (the "**Aggregator Fee**"). Customer shall pay the Aggregator Fee. The initial TCAP Aggregation Fee is \$0.001 per kWh, however, it may be changed by the TCAP Board of Directors at any time. Gexa shall state the Aggregator Fee as a separate line item on the Customer's bill.

3.5 Billing Guarantee. Gexa shall issue an invoice based on actual or estimated usage to Customer for every ESI ID at least one time per month. If, for reasons other than Force Majeure, Gexa fails to invoice an ESI ID within 120 days of any scheduled meter read, Gexa irrevocably waives its right to invoice Customer for any energy consumed at that ESI ID for the meter read cycle that should have been invoiced, unless not less than 10 days prior to the expiration of such 120 day period, Gexa provides Customer with a written explanation of the circumstances that prevent Gexa from issuing that invoice and the expected time by which an invoice can be issued. In such event, Customer and Gexa shall determine a reasonable extension period, not to exceed 30 days, within which an invoice will be issued. Gexa shall adjust or true-up each invoice no more than twice and Gexa shall issue such adjustments within 210 days of the initial issue date. Notwithstanding the foregoing, Gexa may issue an invoice or partial invoice arising from meter tampering charges without limitation and within a reasonable time after first billed to Gexa by the TDSP.

SECTION 4: CUSTOMER INFORMATION, CREDIT AND DEPOSITS

4.1 Customer Information. By entering into this Agreement and appointing Gexa as Customer's agent for electricity service, Customer authorizes Gexa to obtain certain information that Gexa may need to provide Customer's electric service, including Customer's address, telephone number, account numbers, historical usage information, and historical payment information from Customer's TDSP, and Customer further authorizes its TDSP to release that information to Gexa.

4.2 Deposits and Other Security. A Party (the "**Requesting Party**") may require the other Party (the "**Providing Party**") to provide a deposit (or additional deposit if an initial deposit was also required), letter of credit, or other form of credit assurance reasonably acceptable to the Requesting Party (collectively, "**Performance Assurance**") during the Term of this Agreement if: (i) the Requesting Party determines in its reasonable discretion that there has been a material adverse change in the Providing Party's or its guarantor's (if applicable) credit status or financial condition (which, if applicable, will mean that its credit or bond rating has dropped lower than BBB- by Standard & Poor's Rating Group or Baa3 by Moody's Investor Services or ceases to be rated by either of these agencies); or (ii) Customer has been delinquent in paying the electric bill by more than seven days more than twice during the past twelve months. Any Performance Assurance, less any outstanding balance owed by Providing Party to the Requesting Party, will be returned to the Providing Party once the Providing Party's or its guarantor's (if applicable) credit or financial condition becomes satisfactory or, if applicable, to a credit or bond rating of BBB- or Baa3 or higher, whichever occurs earlier; or, if the Performance Assurance relates to delinquent payments, the Providing Party has paid all outstanding balances and has made all payments within the dates set forth in this Agreement for a period of six consecutive months.

SECTION 5: EARLY TERMINATION; DAMAGES

5.1 Cancellation by Customer for Insufficient Appropriations. If, during Customer's annual appropriations determination, the applicable governmental authorities do not allocate sufficient funds to allow Customer to continue to perform its obligations under this Agreement (an "**Appropriations Failure**"), then Customer or Gexa shall have the right to terminate this Agreement in full or as to any affected ESI ID upon 30 days advance written notice effective at the end of the period for which appropriations are made; provided, that if appropriations are subsequently allocated for electricity for the ESI IDs covered by this Agreement, then the termination may be revoked at Gexa's option and those appropriations shall continue to apply to this Agreement and shall not be used for an electricity supply agreement with another REP. Upon a termination of this Agreement for Appropriations Failure, in full or as to any ESI ID(s), Customer shall pay all amounts due Gexa under this Agreement, including the Customer Early Termination Damages.

5.2 Customer Early Termination Damages. Except in connection with the closure of a facility associated with an ESI ID pursuant to Section 1.5, in connection with a Force Majeure Event, or as otherwise provided or excused in this Agreement, if Customer cancels this Agreement before the end of the Term and refuses to accept electric supply delivery from Gexa for any ESI ID(s), Gexa may charge Customer early termination damages equal to the sum of (a) the Retail Termination Payment, (b) the QSE Services Termination Payment, (c) the Quarterly and Annual Adjustment Payment, and (d) the Wholesale Transaction Termination Payment, as each of these terms are defined below (the sum total of these, the "**Customer Early Termination Damages**"). The "**Retail Termination Payment**" shall equal the product of (a) the Expected Usage for each ESI ID subject to Customer's cancellation or refusal of electric supply delivery ("**Customer Terminated Usage**") multiplied by (b) the sum of (i) the Aggregator Fee and (ii) the REP Services Fee specified in the REP Services Agreement. The "**QSE Services Termination Payment**" shall equal the product of (a) the Customer Terminated Usage grossed up for losses multiplied by (b) the QSE Services Fee, as defined in the PSA. The "**Quarterly and Annual Adjustment Payment**" shall be calculated by the Energy Manager in accordance with the PSA, and shall include any Quarterly and Annual Adjustment amounts for electricity provided to the Customer under this Agreement prior to the termination of this Agreement, which have not yet been charged or credited to Customer, as appropriate. For avoidance of doubt, the Quarterly and Annual Adjustment Payment may be either a charge or a credit to Customer, as calculated in accordance with the PSA. If the Customer Early Termination Damages are charged due to an Event of Default by Customer, then the Customer Early Termination Damages will also include Gexa's reasonable costs relating to the determination and collection of Customer Early Termination Damages, including attorney and consultant fees incurred. The provisions in Section 3 related to Billing and Payment apply to the billing, due date, and collection of Customer Early Termination Damages. Customer agrees that Customer Early Termination Damages are a reasonable estimate of the damages due Gexa for failure to accept electric supply, and are not punitive in nature.

5.3 Termination for Wholesale Supply Failure. If, during the Term, the Wholesale Transactions are terminated as a result of a default by the Energy Manager ("**Wholesale Supply Failure**"), then this Agreement will also terminate effective on the date the Wholesale Agreement terminates. In the event of a termination for Wholesale Supply Failure, Gexa shall pay Customer a Wholesale Termination Payment if required by Section 5.5.

5.4 Gexa Early Termination Damages. Except for a Wholesale Supply Failure, a Force Majeure Event, or as otherwise provided or excused in this Agreement, if Gexa cancels this Agreement and refuses to provide electric supply delivery to Customer for any or all ESI ID(s), Customer shall have the right to charge Gexa an early termination penalty equal to the amount determined as follows: the product of (i) the Expected Usage for each ESI ID subject to Gexa's cancellation or refusal of electric supply delivery ("**Gexa Terminated Usage**") multiplied by (ii) the REP Services Fee

specified in the REP Services Agreement (that result the “**Gexa Early Termination Damages**”). If the Gexa Early Termination Damages are charged due to an Event of Default by Gexa, then the Gexa Early Termination Damages will also include Customer’s reasonable costs relating to the determination and collection of Gexa Early Termination Damages, including attorney and consultant fees incurred. Gexa agrees the Gexa Early Termination Damages are a reasonable estimate of the damages due Customer for failure to deliver electric supply, and are not punitive in nature.

5.5 Wholesale Transaction Termination Payment. If the Wholesale Transactions are terminated then Gexa shall calculate the portion of the termination payment paid under each Wholesale Transaction attributable to Customer’s load. The termination payment under each Wholesale Transaction shall be calculated by subtracting the Wholesale Supplier’s actual cost for the portion of the Wholesale Transaction still outstanding for the remainder of the Term from the current market value of comparable electric energy futures contracts. Energy Manager, in its sole discretion, shall determine the current market value of a comparable electricity futures contract within three (3) business days of the termination of a Wholesale Transaction, and shall be either (i) the value of the Wholesale Transaction actually sold to a third-party market participant or (ii) a third-party market quote for a comparable electricity energy future contracts. Energy Manager shall sum Customer’s prorata share of each termination payment for each Wholesale Transaction attributable to Customer’s Load to determine a total Wholesale Transaction Termination Payment under this Agreement (the “**Wholesale Transaction Termination Payment**”). Customer or Gexa shall pay the Wholesale Transaction Termination Payment to the other, as appropriate, in the manner described below and without regard to who is a defaulting party. If the Wholesale Transaction Termination Payment is negative, Customer shall pay Gexa the Wholesale Transaction Termination Payment. If the Wholesale Transaction Termination Payment is positive, Gexa shall pay Customer the Wholesale Transaction Termination Payment. To the extent a termination payment due from Gexa to the Energy Manager is adjusted in Gexa’s account to reflect the full benefit of TCAP transacting with a replacement REP, Gexa shall make corresponding adjustments to the Wholesale Transaction Termination Payment on a pro-rata basis. Gexa shall remit a Wholesale Transaction Termination Payment due Customer, within 30 days of Gexa receiving the payment from the Energy Manager. Customer shall remit a Wholesale Transaction Termination Payment due Gexa within 30 days of Gexa’s invoice. Gexa shall use commercially reasonable efforts to collect Termination Payments from the Energy Manager that include amounts due Customer.

SECTION 6: NOTICES AND PAYMENT

6.1 General Notice. Except as otherwise required by Applicable Law, all notices are deemed duly delivered if hand delivered or sent by United States, prepaid first class mail, facsimile, or by overnight delivery service. Notice by facsimile or hand delivery is effective on the day actually received, notice by overnight United States mail or courier is effective on the next business day after it is sent, and notice by U.S. Mail is effective on the second day after it is sent. The Parties shall send notices to the addresses below or any other address one Party provides to the other in writing:

- a. **If to Customer (type customer address below):**

**City of La Marque
Attn: City Manager
1111 Bayou Rd.
La Marque, Texas 77568**

- b. If to Gexa:
Gexa Energy, LP
20455 State Highway 249, Suite 200
Houston, Texas 77070

6.2 Payments. The Parties shall send payments to the addresses below or any other address one Party provides to the other in writing:

- a. **If to Customer (type customer address below):**

**City of La Marque
Attn: City Manager
1111 Bayou Rd.
La Marque, Texas 77568**

- b. If to Gexa:
Gexa Energy, LP
20455 State Highway 249, Suite 200
Houston, Texas 77070

SECTION 7: DEFINITIONS

7.1 Definitions. In addition to terms defined elsewhere in this Agreement, when used with initial capitalization, whether singular or plural, capitalized terms have the meanings set forth in this Section 7.1. All other capitalized terms not otherwise defined shall have the meanings given them in the following documents, with any conflicting definitions contained in those documents applied in the following order: PURA, the PUCT Substantive Rules, and the ERCOT Protocols.

1. **"Actual Usage"** means the actual amount of electric energy (in kWh) used at the ESI ID(s) as determined by the TDSP.
2. **"Delivery Charges"** means those charges or credits from the TDSP pursuant to its tariff, including, but not limited to: Transmission and Distribution Charges, System Benefit Fund Charge, Nuclear Decommissioning Charge, Competitive Transition Charge, Standard Customer Metering Charge, Customer Charge, Merger Savings and Rate Reduction Credit, Excess Mitigation Credit and Utility Imposed Reactive Power Charges.
3. **"EEI Master Agreement"** mean an EEI Master Agreement between Gexa and the Energy Manager governing the Wholesale Transactions entered into by the Energy Manager in accordance with Section 2.1 and transferred by the Energy Manager to Gexa.
4. **"Effective Date"** means the date of the first meter reading of an ESI ID provided to Gexa by the TDSP after the TDSP and ERCOT shall have timely performed any required enrollment and cancellation procedures necessary to switch Customer's REP to such ESI ID to Gexa.
5. **"Electricity Related Charges"** means, unless noted otherwise: Ancillary Services Charge, Congestion, ERCOT Administrative Fee, Delivery Loss Charge, Transmission Loss Charge, Renewable Energy Credit Charge, Residential Energy Credit Charge, Unaccounted For Energy Charge, Qualified Scheduling Entity Charge, Imbalance Settlement Charge.
6. **"Energy Manager"** means the wholesale market participant designated by TCAP to perform the services described in the PSA.
7. **"Energy Price(s)"** means the rates per unit of measure specified in Section 2.1 and includes all Electricity Related Charges.
8. **"ERCOT"** means the Electric Reliability Council of Texas.
9. **"ERCOT Protocols"** means the document adopted, published, and amended from time to time by ERCOT, and initially approved by the PUCT, to govern electric transactions in the ERCOT Region, including any attachments or exhibits referenced in the document, that contains the scheduling, operating, planning, reliability, and settlement policies, rules, guidelines, procedures, standards, and criteria of ERCOT, or any successor document thereto.
10. **"ESI ID(s)"** means the Electric Service Identifiers for the property service addresses identified on Attachment B to this Agreement or if Customer is an existing Gexa customer then the list of service addresses currently served by Gexa, as such list may be modified from time to time as provided in Section 1.5.
11. **"Expected Usage"** means either the amount stated in Attachment B calculated for the remaining Term, or if no amounts are stated or Customer is an existing Gexa customer then the average actual monthly Customer energy usage from the comparable month from the previous year (or if an average cannot be computed due to limited service by Gexa or other circumstances, an average monthly usage as is reasonably determined by Gexa) times the number of months remaining in the Term as outlined in Section 1.4.
12. **"kWh"** means kilowatt hour.
13. **"LMP" or "Locational Marginal Price"** means the price calculated for the applicable trading hub pursuant to the ERCOT Protocols.

14. **“Market Rate”** means 135% of the load-weighted average of the hourly LMPs at the corresponding load zone, as determined for any delivery period.
15. **“Nodal Market”** means the implementation of wholesale market design by ERCOT with locational marginal pricing for resources.
16. **“Nodal Congestion”** means the positive difference in price between the real-time settlement point price as determined by ERCOT for the trading hub and the real-time settlement point price as determined by ERCOT for the load zone associated with the customer Facilities.
17. **“Non-Recurring Charges”** means any charges imposed by the TDSP or other third parties on a non-recurring basis for services, repairs or additional equipment needed for Customer’s electric service.
18. **“PUCT”** means Public Utility Commission of Texas.
19. **“Project Settlement Payment”** means the Project Settlement Payment as defined in the Project Addendum, attached as Schedule I to this Agreement.
20. **“QSE Services Fee”** means the fee owed from Customer to Gexa, and remitted from Gexa to Energy Manager, for QSE Services performed by Energy Manager for the Term, as mutually agreed between TCAP and Energy Manager, the Customer having authorized TCAP to negotiate such fee on behalf of Customer in the PSA. The QSE Services Fee shall be included in the Energy Price for the Term.
21. **“REP Services Agreement”** means the REP Services Agreement currently in effect during the Term, as amended from time to time, between Gexa and TCAP.
22. **“REP Services Fee”** means the fee owed from Customer to Gexa, for REP services rendered during the Term, as mutually agreed between TCAP and Gexa, the Customer having authorized TCAP to negotiate such fee on behalf of Customer in the PSA. The REP Services Fee shall be included in the Energy Price for the Term.
23. **“Taxes”** means all taxes, assessments, levies, duties, charges, fees and withholdings of any kind levied by a duly-constituted taxing authority and all penalties, fines, and additions to tax, and interest thereon that are directly related to the services provided under this Agreement, but does not include the System Benefit Fund fee and fees and charges imposed by ERCOT. By way of example only, Taxes includes: Sales Tax, Miscellaneous Gross Receipts Tax, PUCT Assessment Fees and Franchise Fees.
24. **“TCAP”** means Texas Coalition for Affordable Power, an aggregation pool of governmental and other entities organized and administered by TCAP of which Customer is a member for the ESI IDs.
25. **“TDSP”** or **“Transmission and Distribution Service Provider”** means an entity regulated by the State of Texas, which transmits or distributes electric energy.

“

Attachments:

Attachment A

Attachment B (for new TCAP Customers only)

Terms and Conditions of Service

Offer Sheet (ESI ID list and Expected Start Date)

CUSTOMER (type Customer name in field below):	GEXA:
City of La Marque	Gexa Energy, LP, By its General Partner Gexa Energy GP, LLC
By:	By:
Printed:	Printed:
Title:	Title:
Date:	Date:

Terms and Conditions of Service Attachment A

These Terms and Conditions of Service form an integral part of the Commercial Electricity Service Agreement between Customer and Gexa. In addition to the terms defined elsewhere in this Agreement, when used with initial capitalization, whether singular or plural, capitalized terms have the meanings set forth in Section 7.1 of this Agreement. Customer should thoroughly review the entire Agreement, including these Terms and Conditions of Service, before executing this Agreement.

A. REPRESENTATIONS AND WARRANTIES

A.1 Customer's Representations and Warranties. As a material inducement to entering into this Agreement, Customer represents and warrants to Gexa as follows: (a) it is a duly organized entity and is in good standing under the laws of Texas; (b) the execution and delivery of the Agreement are within its powers, have been duly authorized by all necessary action, and do not violate the terms or conditions of contracts it is party to or laws applicable to it; (c) performance of this Agreement will be duly authorized by all necessary action and will not violate the terms or conditions of contracts it is party to; (d) as of the date sales of electricity by Gexa to Customer under the Agreement start, Customer will have all regulatory authorizations necessary for it to legally perform its operations and such performance will not violate the terms or conditions of contracts it is party to or laws applicable to it; (e) this Agreement is a legal, valid, and binding obligation of Customer enforceable against it in accordance with its terms, subject to bankruptcy, insolvency, reorganization, and other laws affecting creditor's rights generally, and with regard to equitable remedies, subject to the discretion of the court before which proceedings to obtain the same may be pending; (f) there are no bankruptcy, insolvency, reorganization, receivership, or other similar proceedings pending or being contemplated by it, or to its knowledge threatened against it; (g) there are no suits, proceedings, judgments, rulings, or orders by or before any court or any government authority that could materially adversely affect its ability to perform the Agreement; and (h) as of the Effective Date and throughout the Term, there is no other contract for the purchase of electricity by Customer for the ESI ID(s), or, if such a contract presently exists, that it will terminate prior to delivery under this Agreement.

A.2 Gexa's Representations and Warranties. As a material inducement to entering into this Agreement, Gexa represents and warrants to Customer as follows: (a) it is duly organized, validly existing, and in good standing under the laws of the jurisdiction of its formation and is qualified to conduct its business in those jurisdictions necessary to perform the Agreement; (b) the execution and delivery of the Agreement are within its powers, have been duly authorized by all necessary action, and do not violate the terms or conditions of its governing documents or contracts it is party to or any laws applicable to it; (c) performance of the Agreement will be duly authorized by all necessary action and will not violate the terms or conditions of its governing documents or contracts it is party to; (d) as of the date sales of electricity by Gexa to Customer under the Agreement start, Gexa will have all regulatory authorizations necessary for it to legally perform its operations and such performance will not violate the terms or conditions of its governing documents, contracts it is party to, or laws applicable to it; and (e) the Agreement constitutes a legal, valid, and binding obligation of Gexa enforceable against it in accordance with its terms, subject to bankruptcy, insolvency, reorganization, and other laws affecting creditor's rights generally, and with regard to equitable remedies, subject to the discretion of the court before which proceedings to obtain the same may be pending.

A.3 Forward Contract. (i) This Agreement constitutes a forward contract within the meaning of the United States Bankruptcy Code ("Code"); (ii) Gexa is a forward contract merchant; and (iii) either Party is entitled to the rights under, and protections afforded by, the Code.

B. DISCLAIMERS OF WARRANTIES; LIMITATION OF LIABILITIES

B.1 LIMITATIONS OF LIABILITY. LIABILITIES NOT EXCUSED BY REASON OF FORCE MAJEURE OR AS OTHERWISE PROVIDED, ARE LIMITED TO DIRECT ACTUAL DAMAGES. GEXA IS NOT LIABLE TO CUSTOMER FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES OR LOSS OF REVENUES OR PROFIT. THESE LIMITATIONS APPLY WITHOUT REGARD TO THE CAUSE OF ANY LIABILITY OR DAMAGE. EXCEPT FOR (a) THE GEXA EARLY TERMINATION DAMAGES DUE IF GEXA DEFAULTS, (b) THE CUSTOMER EARLY TERMINATION DAMAGES DUE IF CUSTOMER DEFAULTS, AND (c) THE WHOLESALE TRANSACTION TERMINATION PAYMENT, THE LIABILITY OF EITHER PARTY TO THE OTHER FOR ANY OBLIGATIONS UNDER THIS AGREEMENT SHALL BE LIMITED TO THE AGGREGATE AMOUNT OF ALL DOLLARS PAID BY CUSTOMER TO GEXA (IF CUSTOMER) OR RECEIVED BY GEXA (IF GEXA) PURSUANT TO THIS AGREEMENT. THERE ARE NO THIRD PARTY BENEFICIARIES TO THIS AGREEMENT.

B.2 Duty to Mitigate. Each Party shall mitigate damages and use commercially reasonable efforts to minimize any damages it may incur as a result of the other Party's performance or non-performance.

B.3 WAIVER OF CUSTOMER PROTECTION RULES AND CONSUMER RIGHTS. THE PARTIES FURTHER ACKNOWLEDGE THAT THE CUSTOMER PROTECTION RULES ADOPTED BY THE PUBLIC UTILITY COMMISSION (AS CONTAINED IN ITS SUBSTANTIVE RULES 25.471 ET SEQ.) ("**CUSTOMER PROTECTION RULES**") THAT PERTAIN TO RETAIL ELECTRIC SERVICE RELATED TO RESCISSION RIGHTS, CUSTOMER DISCLOSURES, DELIVERY OF CUSTOMER CONTRACTS TO CUSTOMERS, RECORDKEEPING, INTEREST PAID ON DEPOSITS AND CUSTOMER NOTICES DO NOT APPLY TO THIS AGREEMENT. EXCEPT AS SET FORTH IN THIS SECTION, CUSTOMER EXPRESSLY WAIVES THE CUSTOMER PROTECTION RULES THAT PERTAIN TO RETAIL ELECTRIC SERVICE RELATED TO RESCISSION RIGHTS, CUSTOMER DISCLOSURES, DELIVERY OF CUSTOMER CONTRACTS TO CUSTOMERS, RECORDKEEPING, INTEREST PAID ON DEPOSITS AND CUSTOMER NOTICES TO THE FULLEST EXTENT ALLOWED BY APPLICABLE LAW. CUSTOMER FURTHER WAIVES ITS RIGHTS UNDER THE DECEPTIVE TRADE PRACTICES--CONSUMER PROTECTION ACT, SECTION 17.41, ET. SEQ., BUSINESS & COMMERCE CODE, A LAW THAT GIVES CONSUMERS

SPECIAL RIGHTS AND PROTECTIONS. CUSTOMER REPRESENTS AND WARRANTS TO GEXA THAT: (a) CUSTOMER IS NOT IN A SIGNIFICANTLY DISPARATE BARGAINING POSITION IN RELATION TO GEXA; (b) CUSTOMER IS REPRESENTED BY LEGAL COUNSEL THAT WAS NEITHER DIRECTLY NOR INDIRECTLY IDENTIFIED, SUGGESTED OR SELECTED BY GEXA; AND (c) CUSTOMER VOLUNTARILY CONSENTS TO THIS WAIVER AFTER CONSULTATION WITH ITS LEGAL COUNSEL.

B.4 UCC/Disclaimer of Warranties. The electricity delivered is a "good" as that term is understood in the Texas B&CC (UCC §2.105). The Parties waive the UCC to the fullest extent allowed by law and the UCC requirements do not apply to this Agreement, unless otherwise provided. If there is a conflict between the UCC and this Agreement, this Agreement controls. Neither Party controls nor physically takes possession of the electric energy prior to delivery to Customer's ESI ID(s). Therefore, neither Party is responsible to the other for any damages associated with failure to deliver the electric energy, nor for damages it may cause prior to delivery to Customer's ESI ID(s). Once the electric energy is delivered to Customer's ESI ID(s) it is deemed in possession and control of Customer. ELECTRICITY SOLD UNDER THIS AGREEMENT WILL MEET THE QUALITY STANDARDS OF THE APPLICABLE LOCAL DISTRIBUTION UTILITY AND WILL BE SUPPLIED FROM A VARIETY OF SOURCES. GEXA MAKES NO REPRESENTATIONS OR WARRANTIES OTHER THAN THOSE EXPRESSLY SET FORTH IN THIS AGREEMENT, AND GEXA EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. GEXA EXPRESSLY NEGATES ALL OTHER REPRESENTATIONS OR WARRANTIES, WRITTEN OR ORAL, EXPRESS OR IMPLIED, INCLUDING ANY REPRESENTATION OF WARRANTY WITH RESPECT TO CONFORMITY, TO MODELS OR SAMPLES, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE.

B.5 Force Majeure. Gexa shall make commercially reasonable efforts to provide electric service, but does not guarantee a continuous supply of electricity. Gexa does not generate electricity nor does it transmit or distribute electricity. Causes and events out of the control of Gexa and Customer ("**Force Majeure Event(s)**") may result in interruptions in service or the ability to accept electricity. If either Party is unable to perform its obligations, in whole or in part, due to a Force Majeure Event, then the obligations of the affected Party (other than the obligation to pay any amounts owed to Gexa that relate to periods prior to the Force Majeure Event) are suspended to the extent made necessary by such Force Majeure Event. Therefore, neither Party is liable to the other Party for damages caused by Force Majeure Events, including acts of God, acts of, or the failure to act by, any governmental authority (including the PUCT or ERCOT and specifically including failure by ERCOT to make Customer meter read data available), accidents, strikes, labor troubles, required maintenance work, events of "force majeure" or "uncontrollable force" or a similar term as defined under the applicable transmission provider's tariff, inability to access the local distribution utility system, non-performance by the supplier or the local distribution utility, changes in laws, rules, or regulations of any governmental authority (including the PUCT or ERCOT) that would prevent the physical delivery of energy to Customer's facilities, or any cause beyond such Party's control. The Parties agree that Appropriations Failures and Scheduling Failures are not Force Majeure Events.

C. CONFIDENTIALITY AGREEMENT

C.1 Confidentiality. Customer is a governmental body subject to public information laws, including Chapter 552 of the Texas Government Code. If Customer receives a valid request under applicable public information laws for information related to this Agreement, it shall provide Gexa notice of the request including a description of the information sought prior to Customer's release of information so that Gexa has the opportunity to determine whether such information is subject to an exception as trade secret, competitive, commercial, or financial information. With the exception of the preceding disclosures pursuant to public information laws, a Party (that party, the "**Receiving Party**") shall keep confidential and not disclose any to third parties Confidential Information which is disclosed to the Receiving Party by the other Party (that party, the "**Disclosing Party**") except for disclosures to Authorized Parties or as required by law. "**Confidential Information**" means information in written or other tangible form which is marked as "Confidential" when it is disclosed to the Receiving Party, except that Confidential Information shall not include information which (i) is available to the public, (ii) becomes available to the public other than as a result of a breach by the Receiving Party of its obligations hereunder, (iii) was known to the Receiving Party prior to its disclosure by the Disclosing Party, or (iv) becomes known to the Receiving Party thereafter other than by disclosure by the Disclosing Party. The provisions of this Section apply regardless of fault and survive termination, cancellation, suspension, completion or expiration of this Agreement for a period of two (2) years. Customer authorizes Gexa to provide TCAP with all information requested by TCAP about Customer's account and billings. "**Authorized Parties**" means those officers, directors, employees, agents, representatives and professional consultants of the Parties, and of the Parties' affiliates, that have a need to know the Confidential Information for the purpose of evaluating and performing this Agreement.

D. DEFAULT AND REMEDIES

D.1 Events of Default. An event of default ("**Event of Default**") means: (a) the failure of Customer to make, when due, any payment required under this Agreement for any undisputed amount if that payment is not made within fifteen (15) business days after receipt of written notice (facsimile or electronic mail are valid forms of notice for this paragraph) from Gexa; or (b) any representation or warranty made by a Party proves to be false or misleading in any material respect; (c) except as provided in clause (a) above or otherwise in this section D.1, the failure of any Party to perform its obligations under this Agreement and that failure is not excused by Force Majeure and remains uncured following 20 business days written notice of the failure; (d) the defaulting Party (i) makes an assignment or any general arrangement for the benefit of creditors; or (ii) files a petition or otherwise commences, authorizes or acquiesces to a bankruptcy proceeding or similar proceeding for the protection of creditors, or has such a petition filed against it and that petition is not withdrawn or dismissed within 20 business days after filing; or (iii) otherwise becomes insolvent; or (iv) is unable to pay its debts when due; or (v) fails to establish, maintain or extend Credit in form and in an amount acceptable to Gexa when required; or (e) the Wholesale Transaction is terminated due to a default by Gexa under CESAs with other TCAP members or due to a default by the Energy Manager under the

Wholesale Transaction. If an Event of Default listed in subsection (d) of this Section occurs, it is deemed to have automatically occurred prior to such event.

D.2 Remedies upon an Event of Default. If an Event of Default occurs and is continuing, upon written notice to the defaulting Party, the non-defaulting Party may (a) commence an action to require the defaulting Party to remedy such default and specifically perform its duties and obligations in accordance with the Agreement; (b) exercise any other rights and remedies it has at equity or at law, subject to the Agreement's Limitations of Liabilities; and/or (c) suspend performance; provided, however, that suspension shall not continue for longer than ten (10) Business Days unless the non-defaulting Party has declared an early termination with proper notice. If Customer is responsible for an Event of Default and fails to cure within ten (10) days of written notice (such additional cure period does not apply to default for non-payment), in addition to its other remedies, Gexa may (i) terminate this Agreement; and (ii) charge Customer the Customer Early Termination Penalty pursuant to Section 5 of this Agreement. Notwithstanding the above, Gexa shall not disconnect or order disconnection of service to Customer unless the following events have all occurred: (1) Customer has an Event of Default for nonpayment under Section D.1(a) above, (2) Gexa gives Customer a ten (10) day written disconnection notice; and (3) Customer does not pay all undisputed outstanding payments owed by the end of the ten (10) day notice period. .

E. MISCELLANEOUS PROVISIONS

E.1 Disclaimer. This Agreement does not constitute, create, or otherwise recognize the existence of a joint venture, association, partnership, or other formal business entity of any kind among the Parties and the rights and obligations of the Parties are limited to those set forth in this Agreement.

E.2 Headings. The descriptive headings of the Articles and Sections of this Agreement are inserted for convenience only and are not intended to affect the meaning, interpretation or construction of this Agreement.

E.3 Waiver. Except as otherwise provided, failure of a Party to comply with an obligation, covenant, agreement, or condition may be waived by the other Party only in a writing signed by the Party granting the waiver, but that waiver does not constitute a waiver of, or estoppel with respect to a subsequent failure of the first Party to comply with that obligation, covenant, agreement, or condition.

E.4 Assignment. Except as provided in the REP Services Agreement, Customer shall not assign this Agreement, in whole or in part, or any of its rights or obligations pursuant to the Agreement without Gexa's prior written consent, which shall not be unreasonably withheld. Gexa may withhold consent if a proposed assignee fails to be at least as creditworthy as Customer as of the Effective Date. Gexa may: (a) transfer, sell, pledge, encumber or assign the revenues or proceeds of this Agreement in connection with any financing or other financial arrangement; (b) transfer or assign this Agreement to a Gexa affiliate with operating capability and financial condition substantially similar to Gexa; (c) transfer or assign this Agreement to any person or entity succeeding to all or substantially all of the assets of Gexa with an operating capability and financial condition substantially similar to Gexa as of the execution date of this Agreement; and/or (d) transfer or assign this Agreement to a certified REP with an operating capability and financial condition substantially similar to Gexa as of the execution date of this Agreement. In the case of (b), (c), or (d), any such assignee shall agree in writing to be bound by these Terms and Conditions of Service, and upon assignment, Gexa shall have no further obligations under this Agreement. Gexa shall not assign the Agreement to a non-affiliated entity (including its guarantor) that has a credit rating lower than BBB- without the prior written consent of TCAP, which shall not be unreasonably withheld.

E.5 No Third-Party Beneficiaries. This Agreement does not confer any rights or remedies on any person or party other than the Parties, their successors and permitted assigns; except that the Parties recognize that TCAP is entitled to receive the Aggregator Fee .

E.6 Severability. If a provision of this Agreement is held to be unenforceable or invalid by a court or regulatory authority of competent jurisdiction, the validity and enforceability of the remaining provisions are unaffected by that holding, and the Parties shall, to the extent possible, negotiate an equitable adjustment to the provisions of this Agreement in order to preserve the original intent and purpose of this Agreement.

E.7 Entire Agreement; Amendments. This Agreement constitutes the entire understanding between the Parties, and supersedes any and all previous understandings, oral or written, with respect to the subjects it covers. This Agreement may be amended only upon the mutually signed, written agreement of the Parties.

E.8 Further Assurances. The Parties shall promptly execute and deliver, at the expense of the Party requesting such action, any and all other and further instruments and documents which are reasonably requested in order to effectuate the transactions contemplated in this Agreement.

E.9 Emergency, Outage and Wire Service. In the event of an emergency, outage or service need, Customer shall call the TDSP for the service area of the ESI ID experiencing the emergency, outage or service need.

E.10 Customer Care. Customer may contact Gexa Customer Care if Customer has specific comments, questions, disputes, or complaints toll free at 1-866-961-9399, Monday to Friday 7:00 a.m. – 8:00 p.m. CST and Saturday from 8:00 a.m. – 2:00 p.m.. Gexa shall assist and cooperate with Customer regarding communications with a TDSP relating to service to any ESI ID served by Gexa under this Agreement.

E.11 Governing Law.

a. This Agreement is governed by and construed and enforced in accordance with the laws of the State of Texas applicable to contracts made and performed in the State of Texas, without regard to the State of Texas conflict of laws provisions.

b. All disputes between the Parties under this Agreement which are not otherwise settled will be decided by a court of competent jurisdiction in Harris County, Texas, and the Parties submit to the jurisdiction of the courts of the State of Texas and the Federal District Courts in Houston, Harris County, Texas. All disputes are governed under the laws of the State of Texas.

c. Subject to the provisions of E.11.a. above, this Agreement is subject to, and in the performance of their respective obligations under this Agreement the Parties shall comply with, all applicable federal, state and local laws, regulations and requirements (including the rules, regulations and requirements of quasigovernmental and regulatory authorities with jurisdiction over the Parties, including ERCOT) (collectively, "Applicable Law").

E.12 No Presumption Against Drafting. Both Parties contributed to the drafting of this Agreement. The rule of construction that any ambiguity is construed against the party who drafted this Agreement does not apply to this Agreement.

E.13 Counterparts; Facsimile Copies. This Agreement may be executed in counterparts, all of which constitute one and the same Agreement and each is deemed an original. A facsimile copy of either Party's signature is considered an original for all purposes, and each Party shall provide its original signature upon request.

E.15 Offer for Electric Service; Refusal of Service. This Agreement, including these Terms and Conditions of Service, constitute an offer for electric service, and is expressly conditioned on acceptance of this Agreement by Gexa. Gexa may refuse to provide electric service to Customer subject to the requirements of Applicable Law.

TCAP's SHP Procurement Program

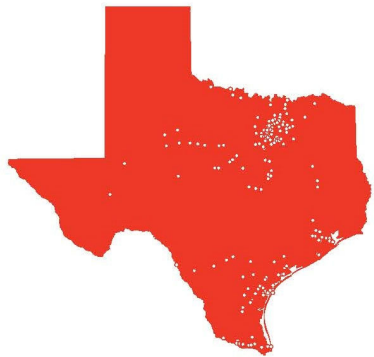
The Future of TCAP Energy

**Texas Coalition for Affordable Power
2020**

CONFIDENTIAL



Who is TCAP?



166 Members

88 Members – North Zone

54 Members – South Zone

12 Members – West Zone

12 Members – Houston Zone

TCAP Board

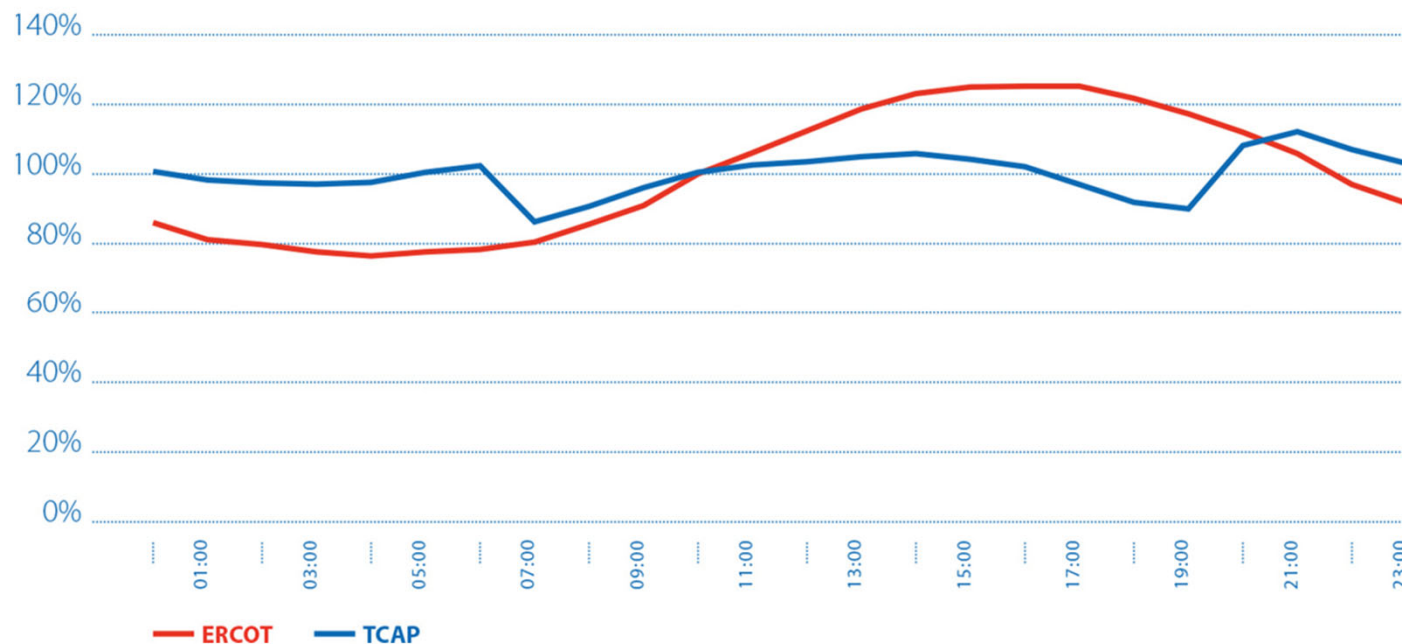
Place 1 – Sugar Land (Houston)	Place 2 – Corpus Christi (South)	Place 3 – Victoria (South)	Place 4 – Wichita Falls (North)	Place 5 – Lewisville (North)
Place 6 – McAllen (South)	Place 7 – Duncanville (North)	Place 8 – Kingsville (South)	Place 9 – Brownwood (North)	Place 10 – Bishop (South)
Place 11 – Rockport (South)	Place 12 – North Richland Hills (North)	Place 13 – Odessa (West)	Place 14 – Tomball (Houston)	Place 15 – Grand Prairie (North)
Large Members	Medium Members	Small Members	At Large	



WHY TCAP?

- Non-profit organization
- Pool energy to negotiate low rates
- Wholesale Market

Average August Day Load—ERCOT vs. TCAP (Hourly Demand % of Average)



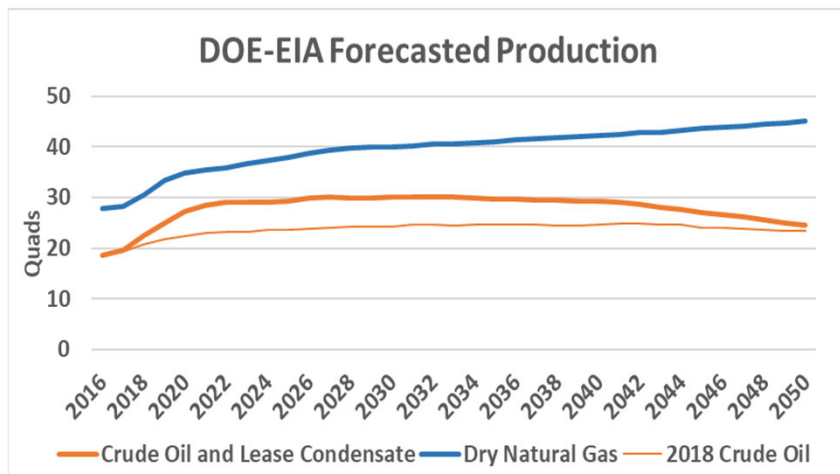
Future Contract

- Current Contract ends December 2022
- TCAP has developed a new procurement option
- The new method should eliminate timing the market to get the best price



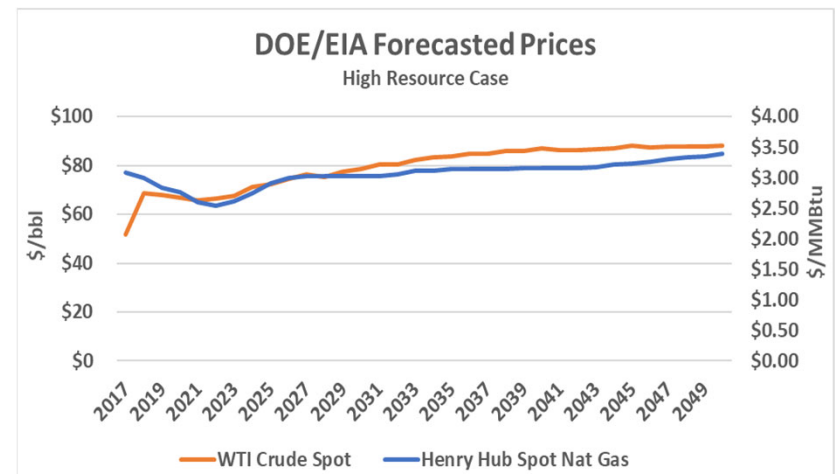
U.S. Energy Future is Bright

World's Largest Producer of Oil and Natural Gas



Positive Supply Outlook

DOE Production Estimate Through 2050 Show a Well Supplied Market

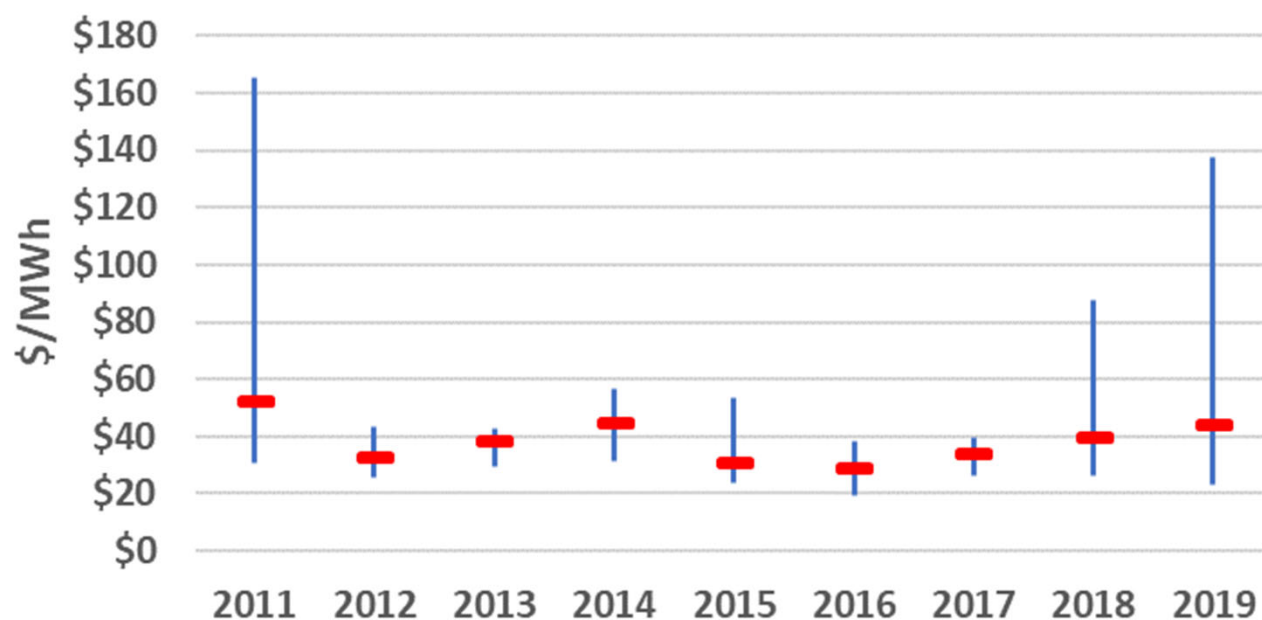


Stable Price Outlook

Actual Natural Gas and Oil Spot Prices Currently Lower than Projected Prices

SHP - The Average Is Much More Stable

Monthly High/Low/Avg Price - Houston Zone
Day Ahead Market



Price Range Varies Greatly by Year (blue lines)

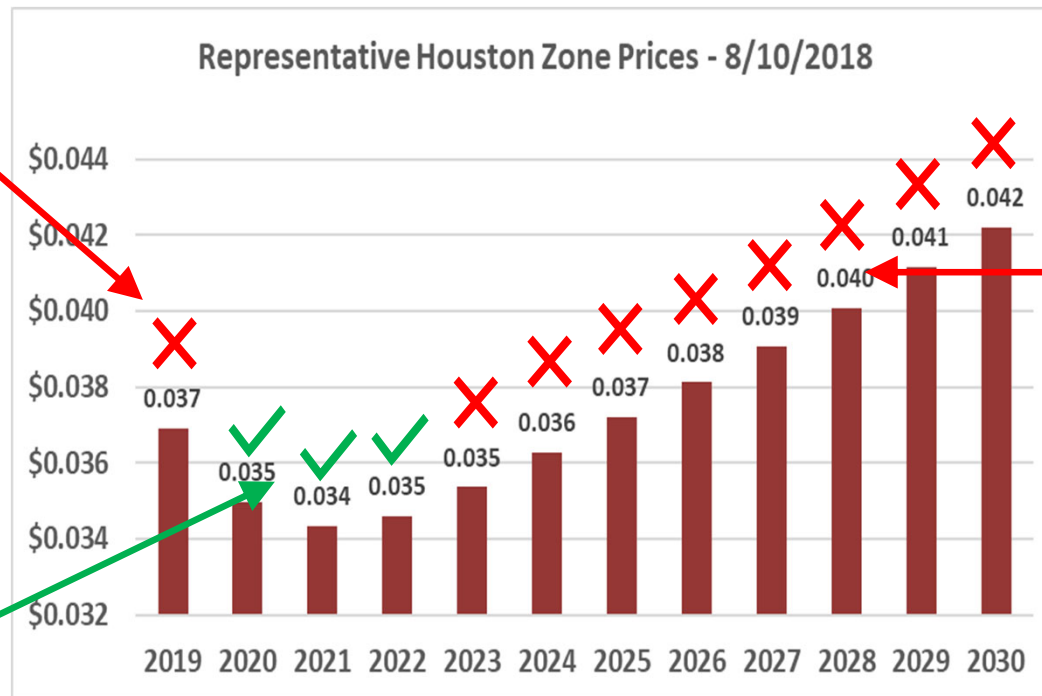
But Average Pricing is Much Less Volatile (red lines)

ERCOT Pricing Pattern Dynamics

Why Does Price Change Over Time?

Prices Reflect Current Market Problems and Issues

Market Feels Short Term Problems will be Resolved. Carrying Charges and Market Premium are Low. Typically, **A Good Time to Buy.**



Prices Increase Over Time Reflecting Carrying Costs of Procurement for Future Needs and Risk Premiums for future market uncertainty

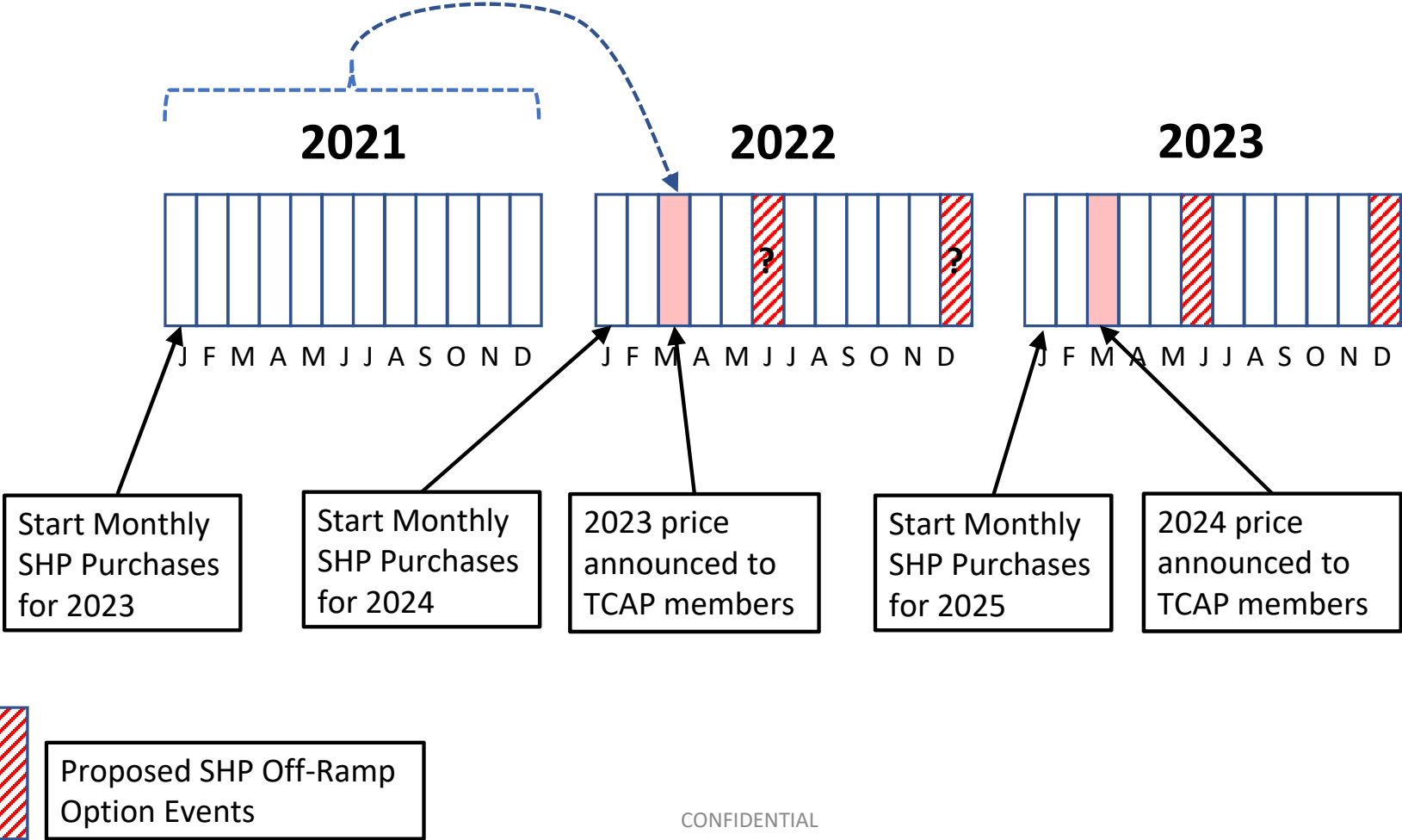
This Pattern Reflects a Well Supplied Market

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SHP Mechanics – What is Different?

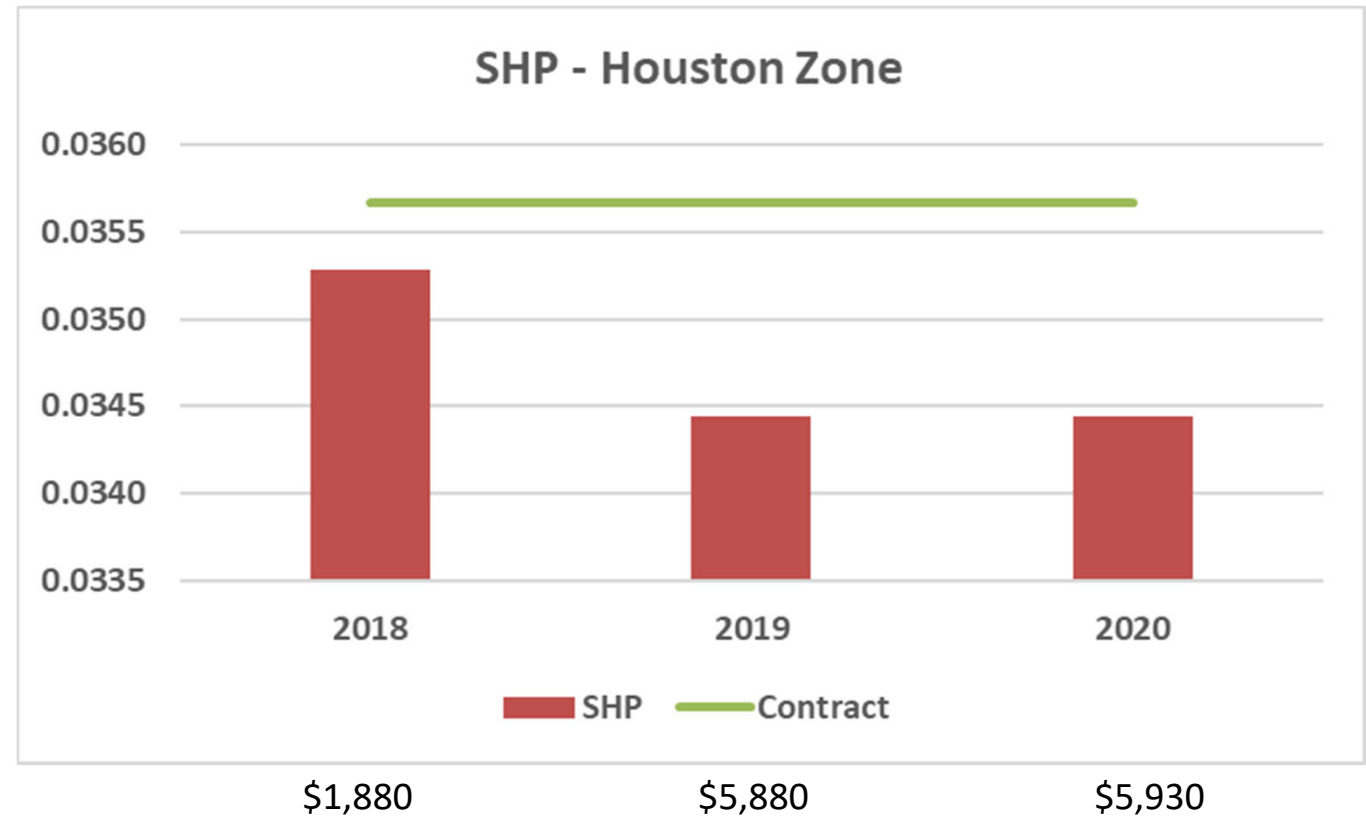
- **Ultra-Competitive RFP Process for Procurement**
- **Periodic Procurements**
 - Multiple RFPs for Each Year's Procurement to Mitigate Price Risk
 - Avoids the “All-In” Guess of a Single Fixed Price Multi-Year Deal
- **Fits Member Needs**
 - **Timely** – Price known Prior to Fiscal Year Budgeting Needs
 - **Market Competitive** – Avoids Having To Explain a Long Term Out of Market Price to Citizens
 - **Flexible** – Periodic Off-Ramps Allow Member to Convert to Fixed Price if Desired
 - **Renewable** – SHP Uses RECs to Make Contract All Renewable

SHP – Timeline of Future Events for 2023 Start



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Analysis Shows SHP Works



La Marque

Long Range Lookback Shows Savings From 2% (Worst Case) to 32% Over Fixed Price Option
Recent Market Quotes Suggest Pricing May Be Significantly Lower For Next Renewal Period.

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A large, dark blue, irregular splash-like graphic on the left side of the slide, with some lighter blue and white speckles around its edges.

Recap and SHP Advantages

- Energy Future Looks Positive – abundant supplies and stable to low prices
- SHP is a unique opportunity for TCAP members
- Structured to Buy When Price is Advantageous
 - Avoid Buyer's Remorse of the "All-In" Guess of a Long-Term Fixed Price (50% correct)
 - Avoids Carrying Charges and Risk Premiums
 - Know Future Price Prior to Budgeting
- All Renewable Contract
- SHP is flexible – Adaptable and Can Convert to Fixed Price



QUESTIONS?

CALL TCAP

Margaret Somereve
msomereve@tcaptx.com
972-764-3136

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CITY COUNCIL AGENDA FORM

Meeting Date: December 14, 2020

Agenda item: 6d

Prepared by: Derra Purnell

Reviewed by: Charlene Warren/

Charles Jackson

Department: Mayor & City Council

AGENDA ITEM DESCRIPTION: Discussion relating to approval of diversity promotion language for use in City contracts and procurement documents



ATTACHMENTS FOR REFERENCE

STAFF BRIEFING:

- Councilmember McAuliffe requested draft language to incentivize/require diversity in City contracts and procurement documents.
- The following language can be included in all City contracts and procurement documents, to the extent legally advisable based on the type of procurement (ex. this language might not make sense if procuring under an established BuyBoard contract or in real estate contracts):
 - By executing this Agreement [by submitting a proposal/bid/response], Contractor agrees to promote and actively pursue diversity. This may be accomplished by any or all of the following or similar actions: actively contacting historically underutilized businesses beyond what is required by law in order to encourage participation as a subcontractor, requiring subcontractors to agree to this provision or a similar requirement, and promoting diversity through organizational values, inclusive hiring practices and employee training. A copy of the contractor's diversity plan should be included in contractor's proposal as an appendix.

HISTORY: N/A

TARGET IMPLEMENTATION: As applicable to future RFP, RFQ and City Contracts as they are drafted in the future

SIGNIFICANT ACTION DATES: N/A

ACTION:

- | | |
|--|---|
| ☐ Ordinance | ☐ Resolution |
| ☐ Special Presentation | ☐ Proclamation |
| ☐ Finance Report | ☐ Public Hearing |
| ☒ Other | |
| ☒ Mark if this item does not conflict with any Resolution, Ordinance or City Charter, policies, procedures | |

Cost Details:

Budgeted	N/A
Actual Bid	N/A
Estimated Expenditure	N/A
Acct. Name(s)	N/A
Line Item #	N/A
Other Funding	N/A



CITY COUNCIL AGENDA FORM

STAFF'S RECOMMENDATION: Motion to approve suggested language for use in City contracts and procurement documents

FISCAL IMPACT: N/A



CITY COUNCIL AGENDA FORM

Meeting Date: December 14, 2020
Prepared by: Derra Purnell

Agenda item: 6e
Reviewed by: Charlene Warren
Charles Jackson

Department: Legal

AGENDA ITEM DESCRIPTION: Discussion relating to accepting the resignation and retirement of Municipal Judge Baker and authorizing the City Manager to post a Request for Qualifications to fill the position as needed

☒

ATTACHMENTS FOR REFERENCE

1. Notice of Retirement

STAFF BRIEFING:

- Judge Baker will be retiring at the end of the year
- The City will need to hire a new municipal judge
- An interim judge may be needed to cover a few dockets until the new judge is hired if the associate judge is unavailable

HISTORY:

TARGET IMPLEMENTATION: N/A

SIGNIFICANT ACTION DATES: N/A

ACTION:

- | | |
|--|---|
| ☐ Ordinance | ☐ Resolution |
| ☐ Special Presentation | ☐ Proclamation |
| ☐ Finance Report | ☐ Public Hearing |
| ☒ Other | |
| ☒ Mark if this item does not conflict with any Resolution, Ordinance or City Charter, policies, procedures | |

Cost Details:

Budgeted	
Actual Bid	
Estimated Expenditure	
Acct. Name(s)	
Line Item #	
Other Funding	

STAFF'S RECOMMENDATION: Recommend to accept Judge Baker's resignation effective December 31, 2020 and authorize the City Manager to post a Request for Qualifications to fill the position as needed

FISCAL IMPACT: N/A

November 5, 2020

Mayor Bobby Hocking

Mayor Pro-Tem Keith Bell

Councilmember Chris Lane

Councilmember Robert Michetich

Councilmember Casey McAuliffe

Charles Jackson, City Manager

City of La Marque

1111 Bayou Road

La Marque, TX 77546

Re: Notice of Retirement

Mayor, Councilmembers and Mr. Jackson;

Please be advised that I will be retiring from my position as La Marque Municipal Judge effective December 31, 2020.

It has been an honor and a pleasure to serve as Municipal Judge for the City of LaMarque for the past 34 years. I have enjoyed working with all the Mayors, Councilmembers, City Managers, Municipal Court Personnel, Police Chiefs, Police Officers and city employees during my tenure.

Thanks go out to each of you as well as to all citizens of La Marque for allowing me to serve your city. It has been an enjoyable and fulfilling experience.

Sincerely;


Stephen W. Baker