NOTICE OF LA MARQUE
CITY COUNCIL WORKSHOP
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, January 11, 2021 that begins 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 - Keith Bell
Vacant - District A
Councilmember Chris Lane - District B
Councilmember Robert Michetich - District C
Councilwoman Casey McAuliffe - District D

****

ORDINANCE NO. O-2021-0001
RESOLUTION NO. R-2021-0002

CITY OF LA MARQUE
CITY COUNCIL
WORKSHOP AGENDA
of
JANUARY 11, 2021

Notice is hereby given that the City Council of the City of La Marque, Texas will conduct a Workshop **via teleconference (ZOOM)** on Monday, January 11, 2021, 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) OLD BUSINESS

a. 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. *THIS ITEM WAS TABLED AT THE DECEMBER 14, 2020 MEETING*

(5) NEW BUSINESS

a. Discussion relating to adopting Resolution No. **R-2021-0001,** calling for the General Election to be held May 1, 2021, to elect one (1) Mayor; (1) Councilmember for District "A"; and one (1) Councilmember for District "C", each for a three (3) year term – Mayor K. Bell/City Clerk R. Eldridge

b. Discussion relating to entering into a Contract with the Galveston County Clerk and Galveston County Election Officer for the General Election to be held on May 1, 2021, and possible Runoff Election on June 15, 2021 – Mayor K. Bell/ City Clerk R. Eldridge

c. Discussion relating to adopting Ordinance No. **O-2021-0001,** amending the fiscal year 2020-21 Budget by increasing various accounts expenditures and decreasing various fund balances as set forth in Exhibit A – Finance Director S.Kou *THIS IS THE FIRST READING*

d. Discussion relating to City Manager's update on city operations during COVID-19 – City Manager C. Jackson

e. Discussion relating to approving creation of the City Manager Diversity Advisory Council – City Manager C. Jackson

(8) 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 condolence;

(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.

(9) ADJOURNMENT

CERTIFICATION:

I hereby certify that the above notice of meeting was posted at 1109-B Bayou Road, La Marque, Texas on or before January 8, 2021 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: January 11, 2021 | Agenda item: **4a**
Prepared by: Suzy Kou | 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
THIS ITEM WAS TABLED AT THE DECEMBER 14, 2020 MEETING

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
- Council motioned to table this item pending additional information

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.**
THIS ITEM WAS TABLED AT THE DECEMBER 14, 2020 MEETING

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 ________________________ 2021.

CITY OF LA MARQUE, TEXAS

____
Keith Bell, 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 additonal 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 solicitiation, 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, comercial, 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 Section1.3.

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 cancelation 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	Terms and Conditions of Service
Attachment B (for new TCAP Customers only)	Offer Sheet (ESI ID list and Expected Start Date)

CUSTOMER (type Customer name in field below): **City of La Marque**	**GEXA:** **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 recieves 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 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, comercial, or financial information. With the exception of the preceding disclosures pursuant to public infromation 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 purusant to the Agreement without Gexa's prior written consent, which shall not be unreasonably withheld. Gexa may withold 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 Aggegator 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.

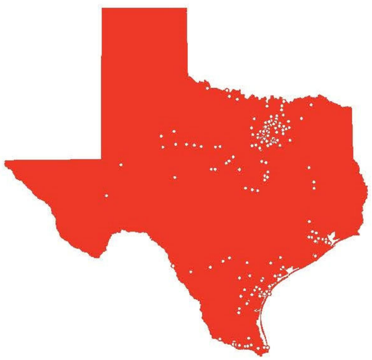
TCAP's SHP Procurement Program

The Future of TCAP Energy

Texas Coalition for Affordable Power

2020

Who is TCAP?



166 Members
88 Members – North Zone
54 Members – South Zone
12 Members – West Zone
12 Members – Houston Zone

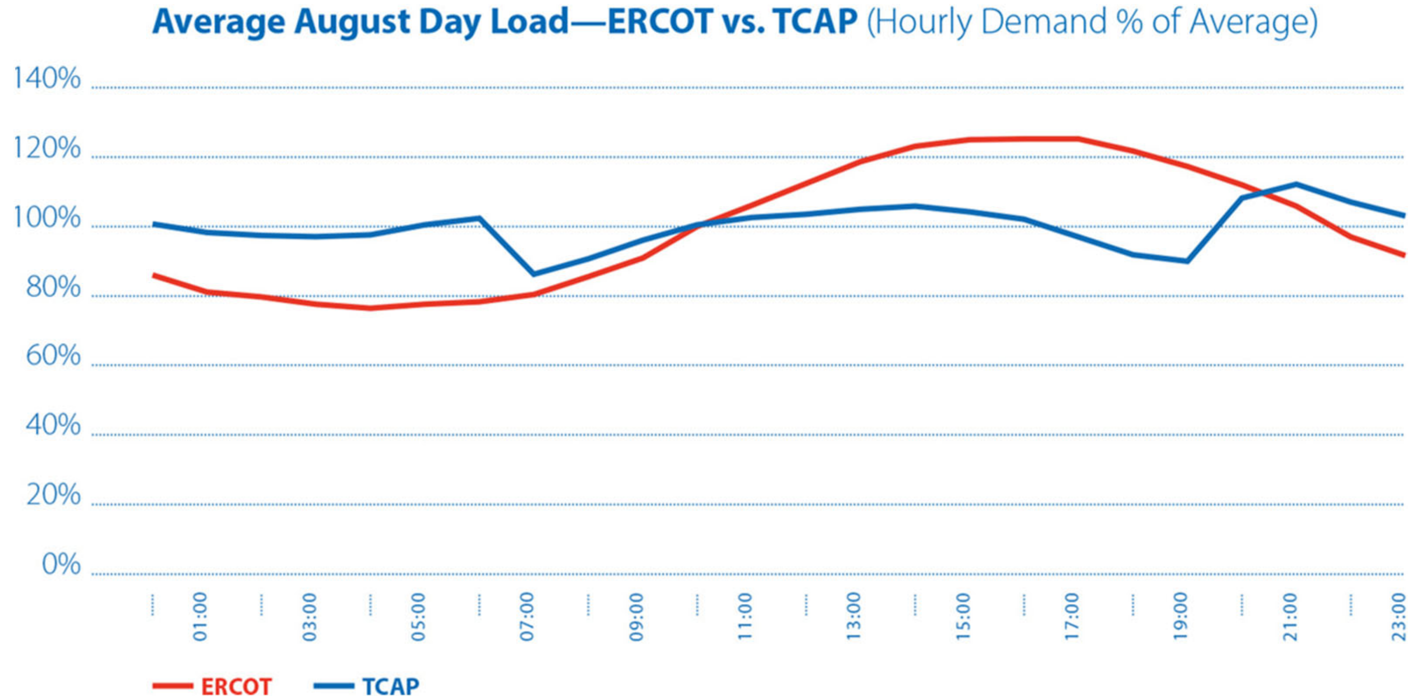
TCAP Board

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
- Wholesale Market
- Pool energy to negotiate low rates

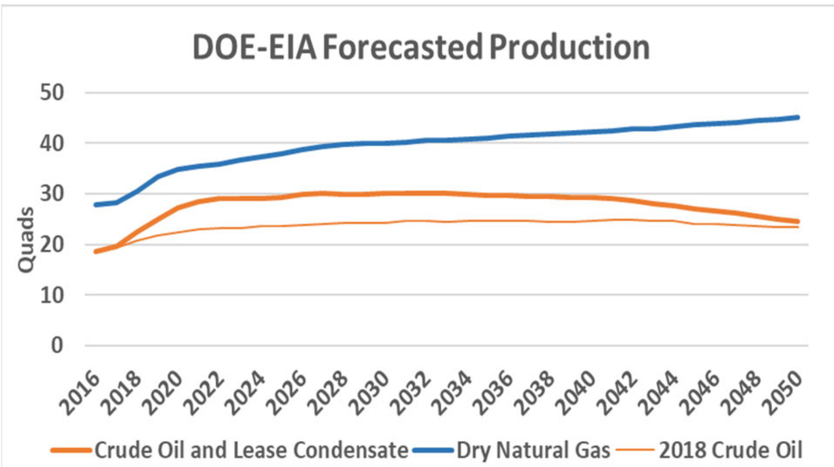


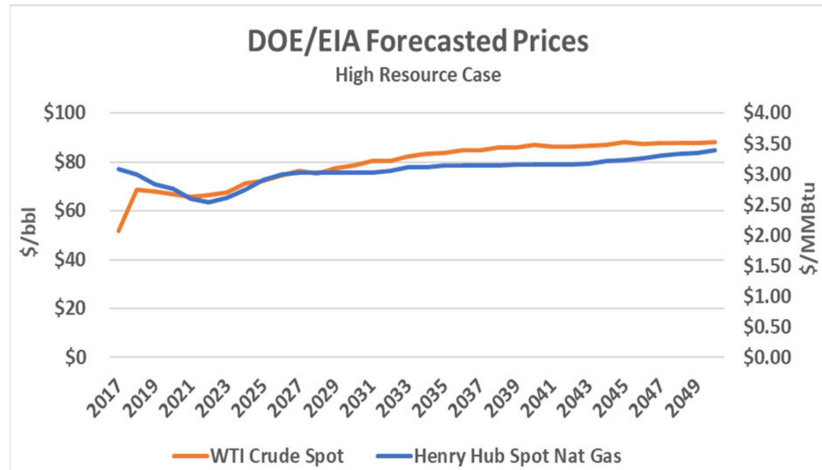
Future Contract

- 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

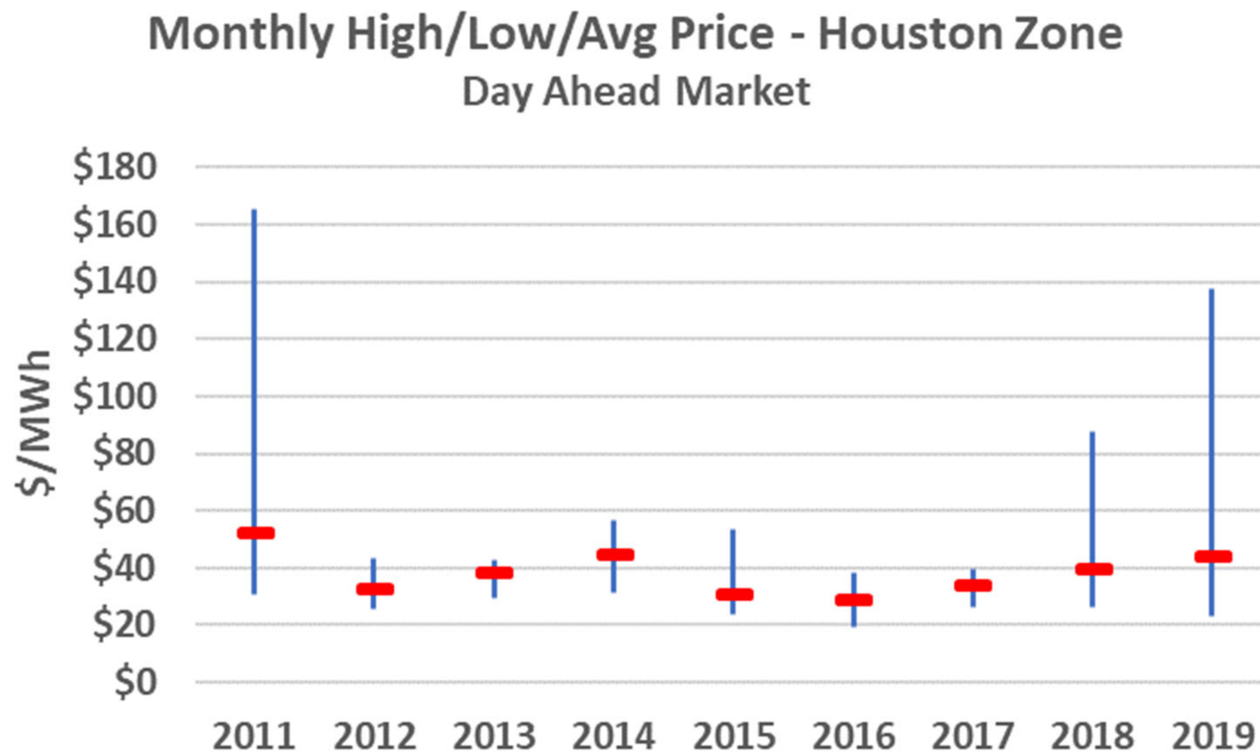
DOE Production Estimate Through 2050 Show a Well Supplied Market

Stable Price Outlook

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

Source: DOE/EIA AEO 2019/2018

SHP - The Average Is Much More Stable



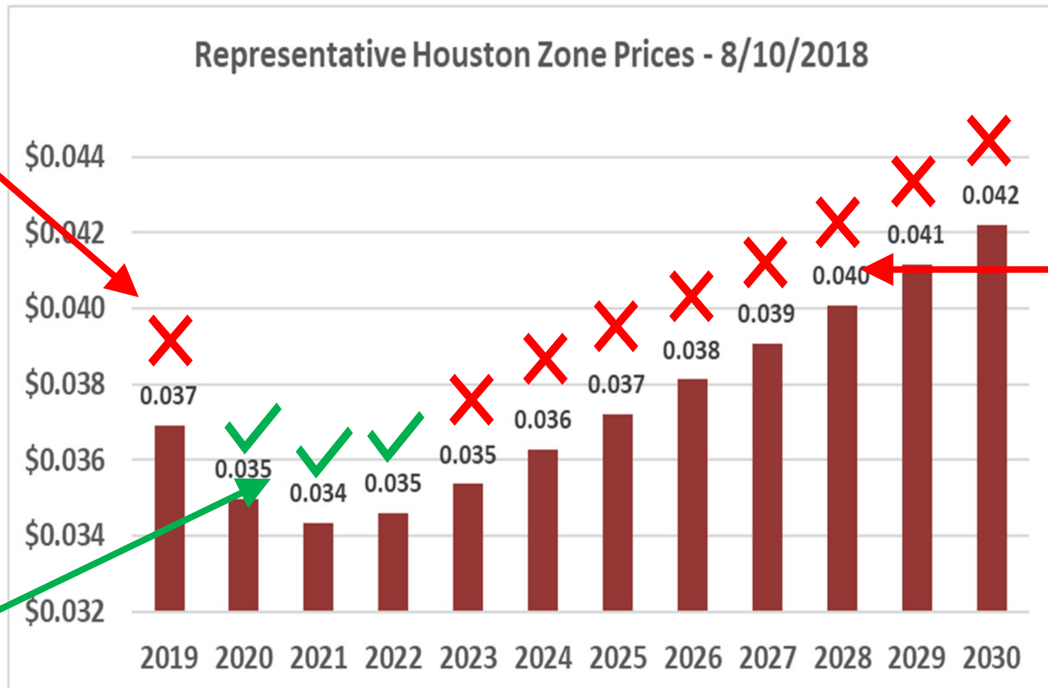
Price Range Varies Greatly by Year (blue lines)

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



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

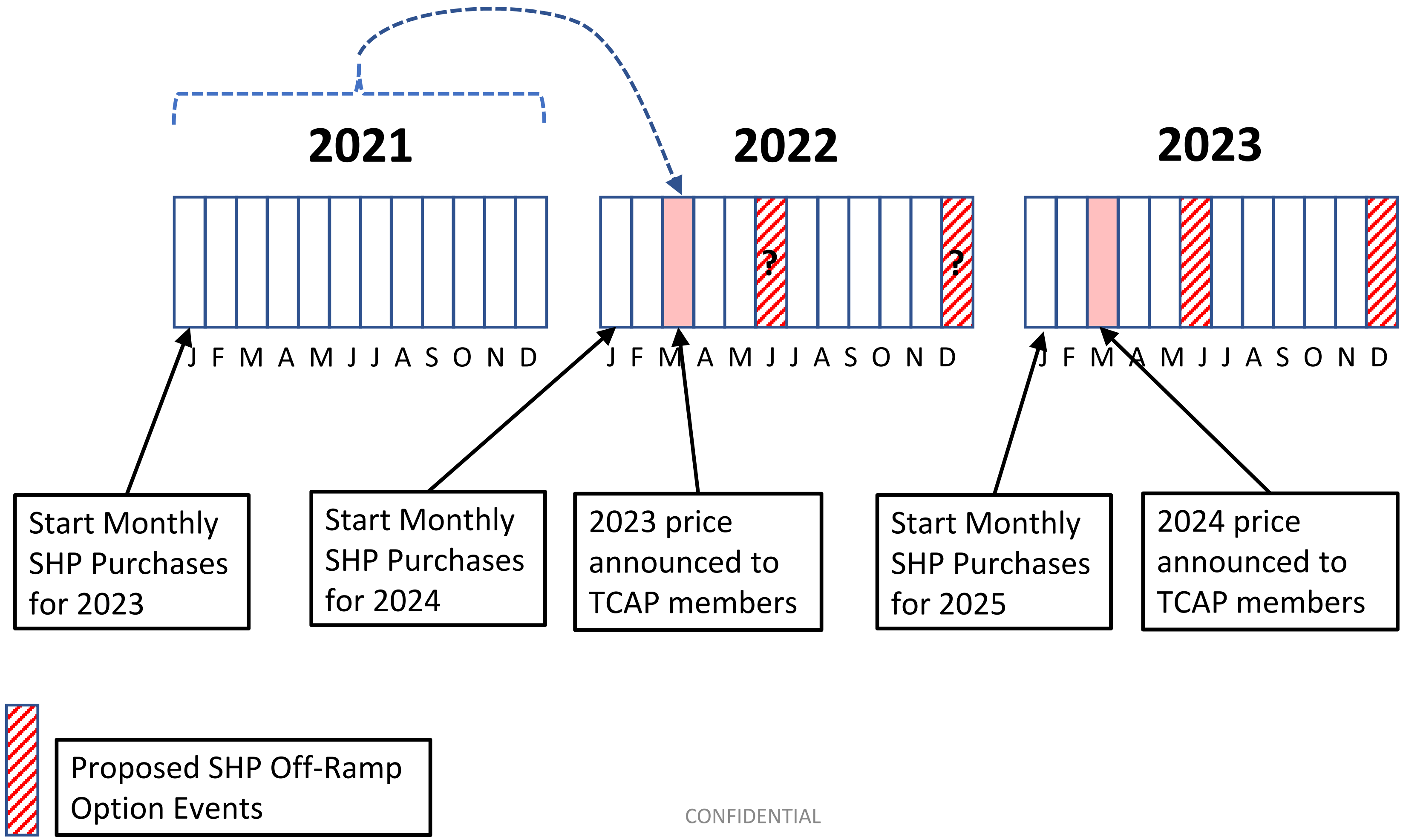
Market Feels Short Term Problems will be Resolved. Carrying Charges and Market Premium are Low. Typically, **A Good Time to Buy**.

This Pattern Reflects a Well Supplied Market

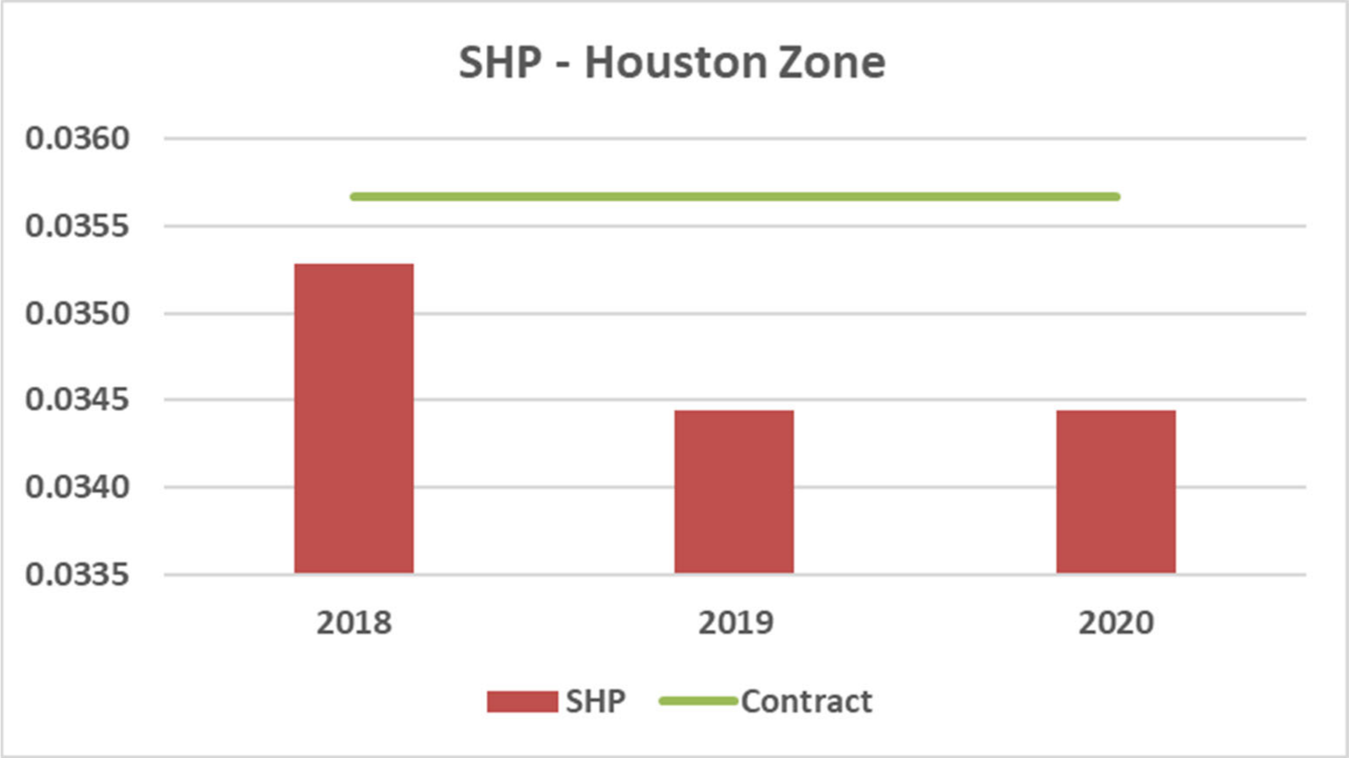
SHP Mechanics – What is Different?

- **Ultra-Competitive RFP Process for Procureme**nt
- **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



Analysis Shows SHP Works



La Marque	$1,880	$5,880	$5,930

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.

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

CITY COUNCIL AGENDA FORM

Meeting Date: January 11, 2021 Agenda item: **5a**
Prepared by: Robin Eldridge Reviewed by: *Charlene Warren/ Charles Jackson*

Department: City Clerk

AGENDA ITEM DESCRIPTION: Discussion relating to adopting Resolution No. **R-2021-0001,** calling for the General Election to be held May 1, 2021, to elect one (1) Mayor; (1) Councilmember for District "A"; and one (1) Councilmember for District "C", each for a three (3) year term

X

ATTACHMENTS FOR REFERENCE
1. Resolution
2. Contract - Galveston County

STAFF BRIEFING:
- According to the Election Calendar for a City's General Election, the recommended time for Calling and Posting a Notice of Election is January 18, 2021 through February 12, 2021, which is AFTER the first day to file, so we are calling for an election at this time.

HISTORY:
- According to the City Charter, Councilmembers may be elected to three (3) year terms, with no term limits
- The positions of Mayor; Councilmember in District "A" and Councilmember District "C" are up for election in the upcoming May 1, 2021 Election

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TARGET IMPLEMENTATION: January 11, 2021

SIGNIFICANT ACTION DATES:
January 11, 2021 - Resolution to call for the City of La Marque's General Election and to contract with Galveston County to conduct the General Election and Run-off (if needed)
January 13, 2021 - First day for filing for a place on the ballot
February 17, 2021 - Last day for filing for a place on the ballot
April 19, 2021 - First day for Early Voting by personal appearance
April 27, 2021 - Last day for Early Voting by personal appearance
May 1, 2021 - Election Day

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	$25,500.00
Actual Bid	N/A
Estimated Expenditure	
Acct. Name(s)	Election Costs
Line Item #	01-4021-07-00
Other Funding	N/A

STAFF'S RECOMMENDATION: Recommend to adopt Resolution No. **R-2020-0001,** calling for the General Election to be held May 1, 2021, to elect one (1) Mayor; one (1) Councilmember for District "A" and one (1) Councilmember for District "C", each for a three (3) year term

FISCAL IMPACT:

- This amount will depend on how many entities will be having an election, after the filing period ends
- Some entities may be able to cancel their elections
- The cost is split between the County and the entities that will be holding their elections

RESOLUTION NO. R-2021-0001

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LA MARQUE, TEXAS, CALLING THE GENERAL ELECTION TO BE HELD ON MAY 1, 2021 AND ADMINISTERED BY THE GALVESTON COUNTY ELECTIONS ADMINISTRATOR, FOR THE PURPOSE OF ELECTING THE POSITION OF ONE (1) MAYOR; ONE (1) COUNCILMEMBER (DISTRICT "A"); AND ONE (1) COUNCILMEMBER (DISTRICT "C"), TO THE LA MARQUE CITY COUNCIL FOR A THREE (3) YEAR TERM; ESTABLISHING POLLING LOCATIONS; DESIGNATING FILING DEADLINES; ORDERING NOTICES OF ELECTION TO BE GIVEN AS PRESCRIBED BY LAW IN CONNECTION WITH SUCH ELECTION

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

Section 1. An election is hereby called to be held on May 1, 2021, for the purpose of electing one (1) Mayor; one (1) Councilmember from City Council District "A" and one (1) Councilmember from City Council District "C".

Section 2. The main polling place where qualified voters shall cast ballots at such location in the City of La Marque, 2021 General Municipal Election is as follows:

City of La Marque Community Room
1109-B Bayou Road
La Marque, Texas 77568

Election polls shall be open from 7:00 a.m. until 7:00 p.m. on the date of the election.

Section 3. Early voting by personal appearance will be conducted at the City of La Marque Community Room, 1109-B Bayou Road, La Marque, Texas, beginning on Monday, April 19, 2021 through Friday, April 23, 2021, with the polls being open from 8:00 a.m. to 5:00 p.m. the first week, and from 7:00 a.m. to 7:00 p.m. on Monday, April 26, 2021 and Tuesday, April 27, 2021.

Early Voting by mail shall be conducted by the Early Voting Clerk for Galveston County.

Applications for ballots by mail must be received no later than the close of business on Tuesday, April 20, 2021. Applications must be sent to:

Galveston County Elections Administration Office
Attn: Elections Coordinator (Early Voting Clerk)
P.O. Box 17253
Galveston, Texas 77552-4253

Dwight Sullivan, County Clerk Galveston County or his designee shall serve as the Presiding Judge of the Central Counting Station.

<u>Section 4.</u> Candidates must file for a specific place and adhere to the filing deadlines accordingly. Candidate packets are available in the City Clerk's office. The candidates filing periods for the General Election for Mayor, Districts "A" and "C" are as follows:

General Election Filing for the position of Mayor
and City Council Districts "A" and "C"

Beginning: January 13, 2021 at 7:30 a.m.
Ending: February 17, 2021 at 5:00 p.m.

Candidates must file in the City Clerk's Office located at 1111 Bayou Road,
La Marque, Texas 77568.

<u>Section 5.</u> It is unknown at this time which entities will be holding an election. After the filing deadline, final polling places will be established, and this Resolution will be amended in conjunction with the Ordering of the Election.

<u>Section 6</u>. The City Clerk is hereby authorized and directed to publish and/or post, in the time and manner prescribed by law, all notices required to be so published and/or posted in connection with the conduct of this election. Galveston County Election Officer shall designate the election judges for the election. The election, including providing Notice of the Election, shall be conducted in accordance with the Texas Election Code and other applicable law, and all resident qualified and registered voters of the City shall be eligible to vote at the election.

PASSED, APPROVED AND ADOPTED by City Council of the City of La Marque this the ______ day of January 2021.

CITY OF LA MARQUE, TEXAS

____
Keith Bell, Mayor

ATTEST:

____
Robin Eldridge, TRMC, City Clerk

APPROVED AS TO FORM:

____
Derra Leigh Purnell, City Attorney

CITY COUNCIL AGENDA FORM

Meeting Date: January 11, 2021 | Agenda item: **5b**
Prepared by: Robin Eldridge | Reviewed by: Charlene Warren/ Charles Jackson

Department: City Clerk

AGENDA ITEM DESCRIPTION: Discussion relating to entering into a Contract with the Galveston County Clerk and Galveston County Election Officer for the General Election to be held on May 1, 2021, and possible Runoff Election on June 15, 2021

X

ATTACHMENTS FOR REFERENCE
1. Contract

STAFF BRIEFING:
- In order to ensure that this contract is presented to Galveston County Commissioners for approval in a timely manner, the City Council first has to approve before the January 30, 2021 deadline

HISTORY:
- The City of La Marque has contracted with Galveston County for Election Services for the past several years
- Most cities contract with the County that they are geographically located in to avoid high costs of purchasing and programming their own equipment for their elections

TARGET IMPLEMENTATION: January 11, 2021

SIGNIFICANT ACTION DATES:
January 30, 2021 - Due date for entities that want to contract with the County to conduct their elections
May 1, 2021 - City of La Marque's General Election
June 15, 2021 - Runoff date (if needed)

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

Cost Details:	
Budgeted	25,500.00
Actual Bid	
Estimated Expenditure	
Acct. Name(s)	Election Costs
Line Item #	01-4021-07-00
Other Funding	**N/A**

CITY COUNCIL AGENDA FORM

STAFF'S RECOMMENDATION: Recommend to approve entering into a contract with the Galveston County Clerk and Galveston County Election Officer for the General Election to be held on May 1, 2021 and possible Runoff Election on June 15, 2021

FISCAL IMPACT:

- This amount will depend on how many entities will be having an election, after the filing period ends
- Some may be able to cancel their elections
- The cost is split between the County and the entities that will be holding their elections

Contract for Election Services

Local Entity Countywide Vote Center Elections

This Contract is made and entered into this____ day of ___________________, 20___ by and between Hon. Dwight D. Sullivan, County Clerk and County Election Officer for Galveston County (herein known as "Galveston County") and __________________________ on behalf of __________________________ ("Entity").

This Contract is being entered into pursuant to Texas Election Code, Chapter 31, Subchapter D for the purpose of ensuring that Galveston County and the Entity understand the tasks each is to perform in connection with the following election and any subsequent runoff election, to-wit:

Purpose of Election: _____________________________________

May 1, 2021	**June 15, 2021**
Election Date	Runoff Election Date

Early Voting will be held on **April 19-23, 2021** from 8 a.m. to 5 p.m. and **April 26-27, 2021** with the polls being open from 7 a.m. to 7 p.m. On Election Day the polls will be open from 7 a.m. to 7 p.m.

1. **Duties and Services of Galveston County.** Galveston County shall be responsible for performing the following duties and furnishing the following services and equipment in connection with the election and any subsequent runoff election.

1.1. Program, or arrange to have programmed, the ballot.
[Cost: Based upon the number of contests on the ballot. See the Fee Schedule]

1.2. Arrange to have published the legal notices of the first test of the electronic tabulating equipment as provided in Texas Election Code §127.096 and conduct all required tests of the electronic tabulating equipment under Texas Election Code §§127.096-127.098 and §§129.021-129.023. The first test shall be conducted at least five days prior to the election. In addition, it will be performed during normal business hours and open to the public.
[Cost: The cost for publishing the notice will be split equally between all the entities involved. See the Fee Schedule]

1.3. Provide technical and equipment support for the electronic poll pads, voting machines and equipment being provided to the Entity. In the event there is an equipment failure Galveston County shall try to remedy the problem over the phone. If unable to do so, will dispatch to locations within Galveston County the appropriate technical support personnel and equipment to correct the failure.
[Cost: Included in the 10% election fee]

1.4. On behalf of the Entity, obtain Official Voter Registration lists from the Voter Registrar to be used during Early Voting and on Election Day.

[See Section 2.3 below]

1.5. Provide Ballot by Mail services for the Entity.
[See the Fee Schedule]

1.6. Hire Judges, Alternate Judges, and clerks to serve as election workers at the various polling locations. Workers will be paid in accordance with Section 5 of this contract and will be required to complete election training (at the discretion of the Elections Division) as a prerequisite for serving. Workers will be paid $48 for attending training.

1.7. Select the countywide vote center polling locations in coordination with the Entity and with the approval of Galveston County Commissioners' Court.

1.8. Provide the Entity ****and where possible the candidates running for office,*** a sample ballot for them to proof and approve or provide corrections.
[See sections 2.6 and 2.7 for related information]

****The Entity will be responsible for providing Galveston County with the email and contact information for each candidate who will be on the ballot.***

For additional Duties of Galveston County see section **(5) Fee Schedule of Galveston County** below.

2. Duties and Services of the Entity. The Entity will be responsible for performing the duties and services set forth in this section and will consummate this contract **on or before <u>January 30, 2021</u>**. Contracts submitted after this date will require a $500 fee ***which will be non-refundable regardless of whether the Entity cancels its election.***

2.1. Prepare and submit any required submissions to the U.S. Department of Justice under the Federal Voting Rights Act of 1965 for its election and runoff election.

2.2. Publish notices of the election in accordance with Section 4.003(a) of the Texas Election Code.

2.3. Provide Galveston County with the Entity's requirements for Official Voter Registration lists for early voting and Election Day.

2.4. In accordance with Texas Election Code §4.008 as amended, deliver written notice of the election to Galveston County.

2.5. It is understood that the Entity may need to modify its election order after **<u>January 31, 2021,</u>** to reflect the actual early voting and Election Day polling locations once the final determination has been made as to which entities will actually be holding an election.

If the Entity wishes to select additional polling locations within its footprint, it will submit a list and the contact information for each facility to Galveston County by **<u>February 14, 2021</u>**. Regardless of who selects the polling locations the Entity shall comply with Texas Election Code §43.062, and shall notify prospective voters of the new location by placing a notice at the old polling location and a notice at the new polling location.

[See Section 1.7 for additional information on the selection of countywide polling places]

2.6. Provide to Galveston County the language for any ballot propositions, the names of election contests, the names of candidates as they are to appear on the ballot, a copy of a sample ballot, ballot draw information and a completed "Requirements to Program the Ballot" form. These materials will be provided in an electronic form to Galveston County by **no later than <u>February 17, 2021</u>**. All language on the ballot must be provided in both English and Spanish in a Word format. Any other languages required by law, must also be provided in a Word format as well (e.g., Harris County, Chinese and Vietnamese). In addition, the Entity will collect and provide to Galveston County the names, addresses, phone numbers and email addresses of all the candidates who are to appear on its ballot. This information will be used to send candidates copies of the ballot proofs for their review.

[See Section 1.8]

2.7. Return to Galveston County, by **<u>March 8, 2021 by noon</u>**, confirmation that the sample ballots Galveston County has prepared and provided to the Entity are satisfactory or provide changes that need to be made. Galveston County intends to conduct the L&A test on the Entity's ballot no later than **<u>March 10, 2021.</u>**

The Entity shall have a representative present during the testing who will sign an affidavit signifying the ballot proofs are accurate and acceptable to the Entity. If unable to attend, a representative may send a signed electronic response approving the ballot.

[See Section 1.8 for related information on ballot proofing]

2.8. Galveston County will be conducting elections for numerous Entities on the same day. The parties understand that each election has its own challenges and requirements and that failure to provide the information outlined in Section 2 of this contract by the dates specified will place an undue burden on Galveston County that may hinder the ability to provide the services to the Entity in a timely and accurate manner. ***<u>Should the Entity miss the deadlines, and/or fail to notify the County of any special circumstances (e.g., adding portions of another county to their election, additional languages required, or unopposed candidates on the ballot) there may be additional charges incurred, up to $1,000.00, to be determined by the Chief Deputy of Elections. Should Galveston County be unable to provide the services in a timely and accurate manner the Entity, to the extent allowed under the Constitution and Laws of the State of Texas, shall hold Galveston County and employees harmless from any election errors and corresponding liability and/or damages that may result, including but not limited to the costs incurred related to an election contest and/or the need to conduct a subsequent election.</u>***

2.9. As required by §67.017(b) and the Secretary of State's Office, the Entity must submit an electronic precinct-by-precinct report to the Secretary of State's Office by no later than the 30th day after Election Day.

2.10. Unless otherwise stipulated, Galveston County will transport or have the Presiding Election Judges transport on its behalf, the voting machines and equipment to and from the Entity's early voting and Election Day voting locations.

2.11. Monitor, with the assistance of Galveston County, the overall conduct of its election in Entity's jurisdiction including the observation of the tabulating of the results.

2.12. Entity to pay a $125 fee per early voting and Election Day polling locations within its jurisdiction for additional support staff to provide the Entity and its Judges election support services throughout the term of this contract.

3. Cancellation of Contract: Except for contracts consummated after <u>**January 30, 2021**</u>, the Entity may cancel this contract without incurring any expenses by notifying Galveston County of its intention to cancel by no later than two (2) business days after its candidates filing deadline of <u>**February 16, 2021**</u>***.*** The Entity will be obligated to pay Galveston County a $500 fee if cancelled after this grace period.

4. Special Provision: Bilingual Poll Worker Requirements. Galveston County is permanently enjoined from:

a) Failing to provide in Spanish "any registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots," that they provide in English as required by Section 4(f)(4) of the Voting Rights Act, 43 U.S.C. 1973b(f)(4); and

b) Failing to ensure that poll workers provide and receive adequate training regarding (1) the use of providing provisional ballots under Section 302(a) of HAVA; and (2) the display of all HAVA-required signs under Section 302(b) of HAVA.

5. Fee Schedule of Galveston County: Galveston County agrees to perform these services at the following rates:

a) Provide to the Election Judges all necessary election supplies, which are to be returned to Galveston County after the polls close on Election Night.
<u>Cost</u>: $50 per kit

b) Arrange for staff to receive the supplies and equipment being returned by the Election Judges on Election Night.
<u>Cost</u>: Overtime for staff and part time workers hired to provide this service will be evenly split between the entities contracting with Galveston County.

c) Provide all necessary voting machines and equipment for use at early voting and Election Day locations.
<u>Cost</u>: $465 per Verity Touch, $506 per Verity Controller and $577 per Verity Touch with access.

d) Transport the voting machines and equipment to and from the voting locations.
<u>Cost</u>: $125 delivery per location

e) Program the ballot and conduct the Logic and Accuracy Testing of the counting equipment.

***Cost*: Determined by the number of contests on the ballot: $600 for up to ten contests, $1,200 for up to 20, $1,800 for up to 30, $2,450 for up to 40 and $3,000 for 41 or more contests.**

f) Provide a central counting station, supplies, equipment and the tabulating and supervisory personnel needed to tabulate. Prepare the unofficial tabulation results and unofficial/official canvass report.
***Cost*: $400 for use of the equipment plus overtime for county employees doing the tabulation if applicable.**

g) Assist the Entity in the general overall supervision of the election and any subsequent runoff election.
***Cost*: Included in the 10% election fee**

h) Conduct early voting, Election Day Voting, and bilingual training.
***Cost*: $50 per person per class**

i) Two or more electronic poll pads will be deployed (at the discretion of the Elections Division) to each polling location.
No Cost

j) Galveston County will partner with the Entities to determine the polling locations within their jurisdictions.

k) Hire judges, alternate judges, and clerks that are trained by Galveston County and are registered voters from within one of the jurisdictions holding an election.
***Cost*: Base cost of $12 per hour per worker. Any worker who serves more than 40 hours in a given pay week will be compensated at time and a half for the hours served in excess of 40 hours.**

l) Elections Mobile App: Entities contracting elections with Galveston County will have their election information included on the Elections Mobile App.
***Cost*: $500.**

m) The cost for all printed ballots (ballots by mail, sample ballots and test ballots) is $.25 per sheet.

n) Ballots by Mail: Galveston County will provide ballot by mail processing services to the Entity. ***The cost for this service is $3.00 per ballot ($3.50, if a multi-page ballot)***.

o) The Entity may have an observer present during the tabulation of the votes. The name and contact information of the observer must be provided to and approved by the Presiding Judge of the Central Count Station on the form prescribed by the Texas Secretary of State upon arrival at the location.

6. **Compensation, Billing, and Payment.** In accordance with Section 31.100(d) of the Texas Election Code the Entity will pay Galveston County the greater of Seventy-Five ($75.00) Dollars or ten percent (10%) of the total amount of this contract for general supervision of the election. Pursuant to Texas Election Code §31.098, Galveston County may contract with third persons for election services and supplies

agreed to herein and the Entity hereby agrees to pay for these third party costs when invoiced by Galveston County.

Galveston County will invoice the Entity for services rendered under this contract. The Entity will make payment to Galveston County in accordance with the terms and provisions of what is commonly referred to as the Texas Prompt Payment Act.

7. Voting System. The Hart Intercivic Verity equipment as approved by the Texas Secretary of State will be the voting system used in providing services under this contract.

8. Authorized Representatives. Galveston County's authorized representative for all purposes of this contract is its Chief Deputy Clerk for Elections.

The Entity's authorized representative for all purposes of this contract is:

______________________	____________________	____________________
Name (Print)	Signature	Phone #

9. General Provisions. As specified in Texas Election Code §31.096 this contract may not change:

a) The authority with whom applications of candidates for a place on a ballot are filed;

b) The authority with whom documents are filed under Texas Election Code S251.001 et. seq.; or

c) The authority to serve as custodian of voted ballots or other election records.

As set forth in Texas Election Code §31.099 not later than the 10th day after the date this contract is executed Galveston County shall file a copy of this contract with the County Treasurer and the County Auditor.

10. WAIVER OF DAMAGES. The parties acknowledge that the Hart Intercivic Verity System and the programming of paper ballots is highly technical and that it is conceivable that despite the efforts of Galveston County it might fail during an election or might contain errors. The Entity agrees that should the electronic voting system fail, it will not make any claim against Galveston County or any of their full or part-time employees, independent contractors or agents for damages of any kind, including but not limited to any and all costs relating to an election contest and/or costs and damages incurred for having to conduct a second election caused as a result of such failure or error.

The Entity acknowledges that holding multiple simultaneous elections presents logistical problems and other problems over and above a single election. Galveston County and its employees and agents will attempt to help ensure that these simultaneous elections are conducted without error or mishap, but on occasion, errors or mishaps do occur. Accordingly, the Entity agrees that should an error or mishap occur that it will not make any claim against Galveston County, or their full or part-time employees, independent contractors or agents for damages of any kind including but not limited to any and all costs relating to an election contest and/or costs and damages incurred by the Entity for having to conduct a second election, as a result of such error or mishap.

If legal action is filed against the Entity involving its election and if Galveston County is named as a party to this legal action and the complaint is based solely on allegations made against the Entity, the Entity shall be solely responsible for all costs and defense of that suit. In addition, the Entity shall be required to provide adequate legal counsel for Galveston County and, upon notice to the Entity, Galveston County shall be entitled to settle such claim or legal action upon terms it deems most advantageous to itself.

For purposes of implementing this contract, Galveston County and the Entity designate the following individuals to submit and/or receive information or notices to Galveston County or the Entity:

Galveston County:
Dwight D. Sullivan, County Clerk
Attention: Ernest Murrie, Chief Deputy Clerk for Elections
Galveston County Justice Center
600 59th Street, Suite 2001
Galveston, TX 77551-4180

P.O. Box 17253
Galveston, Texas 77552-7253
409-770-5108
Email: ernest.murrie@co.galveston.tx.us

Entity: Name/Address

____

______________________________ *Phone:* ________________________

______________________________ *Email:* _________________________

This contract will be submitted to the Galveston County Commissioners' Court to be placed on the Consent Agenda as a Receive and File Item.

11. **Galveston County Title VI Assurance Clause.** Galveston County is committed to ensuring that no person, on the ground of race, color, national origin, religion, sex, age, disability or Veteran status, shall be subjected to discrimination, excluded from participation, or denied the benefits of, its programs and activities.

In accordance with this policy Galveston County requires its service providers and contractors to agree that during the performance of this contract the service provider or contractor for itself, its assignees and successors will abide by the following:

Compliance with Non-Discrimination Laws and Regulations. During the performance of this contract, contractor, for itself, its assignees and successors in interest (hereinafter referred to as “contractor”) agrees as follows:

1) **Compliance with Regulations.** The contractor shall comply with the Regulations relative to nondiscrimination in Federally-assisted programs of the Department of Transportation (hereinafter, DOT) Title 49, Code of Federal

Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the Regulations), which are incorporated herein by reference and made a part of this contract.

2) **Nondiscrimination**. The contractor, with regard to the work performed by it during the contract, shall not discriminate on the basis of race, color, national origin, religion, sex, age, disability or Veteran status in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

3) **Solicitations for Subcontractors, Including Procurement of Materials and Equipment**. In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurement of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, national origin, religion, sex, age, disability or Veteran status.

4) **Information and Reports**. The contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information and its facilities as may be determined by Galveston County or the Texas Department of Transportation to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information the contractor shall so certify to Galveston County or the Texas Department of Transportation as appropriate, and shall set forth what efforts it has made to obtain the information.

5) **Sanctions for Noncompliance**. In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, Galveston County shall impose such contract sanctions as it or the Texas Department of Transportation may determine to be appropriate, including, but not limited to:

    a) withholding of payments to the contractor under the contract until the contractor complies, and/or

    b) cancellation, termination, or suspension of the contract, in whole or in part.

6) **Incorporation of Provisions.** The contractor shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The contractor shall take such action with respect to any subcontract or procurement as Galveston County or the Texas Department of Transportation may direct as a means of enforcing such provisions including sanctions for non-compliance: Provided, however, that, in the event a

contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request Galveston County to enter into such litigation to protect the interests of Galveston County, and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

Executed this _________ day of ______________________, 20___.

Galveston County:

____
Dwight D. Sullivan
County Clerk

Entity:

Name: ______________________ ___________________________
(Please Print) (Signature)

( ) City Manager ( ) Mayor
( ) Superintendent ( ) President
( ) City Secretary ( ) Other
( ) Chair County Executive Committee

Received and Filed:
Galveston County

____
Hon. Mark Henry
County Judge
Attest:

____
Dwight D. Sullivan
County Clerk

Date: ______________________

Date Copy of Agreement Furnished

to County Treasurer: ___________________

Date Copy of Agreement Furnished

to County Auditor: _____________________

CITY COUNCIL AGENDA FORM

Meeting Date: January 11, 2021 Agenda item: **5c**
Prepared by: Suzy Kou Reviewed by: Charlene Warren/ Charles Jackson

Department: Finance

AGENDA ITEM DESCRIPTION: Discussion relating to adopting Ordinance No. **O-2021-0001,** amending the fiscal year 2020-21 Budget by increasing various accounts expenditures and decreasing various fund balances as set forth in Exhibit A *THIS IS THE FIRST READING*

☒ X

ATTACHMENTS FOR REFERENCE

1. **Ordinance**
2. **Exhibit A**
3. **Succession Plan**
4. **Assistant City Manager Memo**

STAFF BRIEFING:

- Council approved purchase of two fire trucks in fiscal year 2019-20. One was purchased in fiscal year 2019-20. Second one was paid in October 2020, fiscal year 2021.
- A new position of Assistant City Manager was added in December 2020 in Administration department
- Utility vac truck was approved by Council in fiscal year 2020. Invoice was paid in fiscal year 2021

HISTORY: N/A

TARGET IMPLEMENTATION: February 8, 2021

SIGNIFICANT ACTION DATES:
January 11, 2021 – First reading of the ordinance

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	-0-
Actual Bid	
Estimated Expenditure	**See Exhibit A**
Acct. Name(s)	See Exhibit A
Line Item #	See Exhibit A
Other Funding	

CITY COUNCIL AGENDA FORM

STAFF'S RECOMMENDATION: Recommendation to adopt Ordinance No. **O-2021-0001,** amending the 2020-21 Budget by increasing various accounts expenditures and decreasing various fund balances as set forth in Exhibit A *THIS IS THE FIRST READING*

FISCAL IMPACT: **See Exhibit A**

ORDINANCE NO. O-2021-0001

IN ORDINANCE AMENDING THE CITY OF LA MARQUE 2020-2021 BUDGET BY INCREASING VARIOUS BUDGET ACCOUNTS' EXPENDITURES AND DECREASING VARIOUS FUND BALANCES AS SET FORTH IN ATTACHED EXHIBIT "A".

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

Section 1. That the City La Marque 2020-2021 Fiscal Year Budget is hereby amended by increasing various accounts' expenditures and decreasing various fund balances as set forth in Exhibit "A" attached hereto and made a part hereof.

Section 2. Open Meetings Act. It is hereby officially found and determined that the meeting at which this ordinance was passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, *Chapter 551, Tex. Gov't Code.*

PASSED AND APPROVED by City Council of the City of La Marque, Texas, on this the first reading this the _____ day of ___________, 2021.

PASSED, APPROVED and ADOPTED by City Council of the City of La Marque, Texas, on this the second and final reading this the____ day of __________, 2021.

CITY OF LA MARQUE, TEXAS

____
Keith Bell, Mayor

ATTEST:

____
Robin Eldridge, TRMC, City Clerk

APPROVED AS TO FORM:

____
Derra Leigh Purnell, City Attorney

Budget Amendment FY 2020-21
Exhibit A

Accounts	Descriptions	Amounts	Comments
01-7030-06-00	10 YEAR LIFE ASSETS (VEHICLES)	592,242	Second fire truck
01-1090-99-00	EMPLOYMENT SETTLEMENT	80,000	Court settlement
01-1010-01-01	SALARY-ADMINISTRATION	68,030	New Assistant City Manager
01-1060-01-01	TAXES	6,222	New Assistant City Manager
01-1065-01-01	TMRS	10,946	New Assistant City Manager
01-1070-01-01	MEDICAL INSURANCE	1,761	New Assistant City Manager
01-1036-01-01	PHONE STIPENDS	1,102	New Assistant City Manager
01-1010-04-00	SALARY-COURT	5,000	Retirement pay out-Judge
01-2401-00-00	FUND BALANCE	-765,303	
02-7030-22-00	10 YEAR LIFE ASSETS (VEHICLES)	347,669	Vac truck
02-2401-00-00	FUND BALANCE	-347,669	
65-7101-12-00-IH45-4	IH 45 CORRIDOR PROJECT	71,603	2020 CO project-IH 45
65-2401-00-00	FUND BALANCE	-71,603	

CITY OF
LA MARQUE, TX
GATEWAY TO THE GULF

TO: Mayor and City Council
FROM: Charles Jackson, City Manager
DATE: DRAFTED - October 1, 2019
PARTIALLY IMPLEMENTED – October 30, 2019
SUBMITTED FOR FULL APPROVAL – January 11, 2021
SUBJECT: **Succession Plan – City Manager's Office / Administration**

As the Chief Administrative Officer for the City of La Marque, it is imperative that I not only provide effective leadership across all city departments, but that I also provide a mechanism for timely and efficient operations in the wake of retirements, resignations or untimely tragedies that could leave an unprepared city lacking. None of us like to think about nor fully contemplate a scenario outside of a happy retirement for a faithful employee after decades of service. Unfortunately, that is not always the case. Best practices require us to recruit the absolute best employees we can get, and then groom them for future leadership positions within our city, to meet these potential needs. This process is known as succession planning.

On October 1, 2019, I finalized and issued Internal Policy 19-08, Citywide Succession Planning - Leadership. This policy requires each director to establish a succession plan for their department (with my guidance), to minimize the effects of the loss of the top leader in their department. Essentially, the first step in this process is for each to establish a process for preparing their replacement. Once that part of the plan is completed, we will begin working on other important leadership positions within each department. The overall succession plan for all departments will be completed prior to April 30, 2021.

Each of the department plans should be able to be accomplished within existing budgets utilizing current staffing. Future department budgets may need to see training monies expanded slightly to ensure we are developing leaders completely, however, there are adequate positions within most departments to implement successful succession plans.

Three departments however would potentially require modification to their structure to allow for an appropriate succession plan to be implemented. My recommendations for these three departments are listed below.

Human Resources Department – Our Human Resource Department consist of a single employee, the Human Resource Coordinator. Development of a viable succession plan in that department would require creating an additional position within that department. From a management standpoint, adding another employee into the Human Resources Department is not a fiscally responsible choice. The volume of work within that department does not justify additional staff. Because of the nature and specialization of Human Resource work, my best recommendation would be to consider open recruitment for any potential vacancy as our best option for the succession plan within that department. However, any department director that wishes to cross train their administrative assistant with the Human Resource Department as part of their Career Development Plan for that position would be allowed to do that. This would lend itself to development of talent from within the City.

City Clerk Department – Because of the nature of the work done in the City Clerk Department, and the reliance on having a City Clerk with significant historical knowledge of city council actions, it is imperative that a City the size of La Marque maintain a minimum staffing of two people in this department. Upon my arrival, I designated a Deputy City Clerk (City Manager's Executive Assistant) and directed the City Clerk to begin training her immediately. At the time of the designation, the Executive Assistants time was split between the City Manager's office and the City Clerk's office to accommodate the training. As time progressed, and with City Council's blessing in the annual appropriations budget, this position was reclassified and fully transferred to the City Clerk's Office. This structure allows a current City Clerk to constantly be preparing a potential replacement, thus ensuring that all institutional knowledge will not be lost any time a sitting City Clerk vacated that position.

City Manager's Office – With the transfer of the Administrative Assistant position to the City Clerk's Office as the Deputy City Clerk, only two positions remain in the City Manager's Office, the City Manager and the Assistant to the City Manager. My recommendation for development of a succession plan for the City Manager's Office is two parts:

1) Reclassification of Assistant to the City Manager position to an Assistant City Manager (ACM); and
2) Creation of an additional Assistant City Manager (ACM) Position.

Under this proposed structure, both Assistant City Manager (ACM) positions would be assigned specific departments and boards/commissions that they would have primary supervision of. One would be public safety focused (Fire/Police) and one would be customer service focused (Public Works/Finance/Library, Utility Billing). Each would report directly to the City Manager who would then have more flexibility to work on pressing citywide issues including development projects, strategic planning, and monitoring and execution of City Council priorities. Project timelines, priority issues and health, safety and welfare concerns could be addressed in a more timely fashion under this structure as well. This division of labor would allow the City Manager to develop and fully train two potential replacements at the same time. Historically, cities with this type of management structure have realized significant increases in successful completion of master plans, comprehensive plans and long range projects/goals established via citizen input due to institutional and historical knowledge being maintained during a transition in the City Manager position. This structure would provide improved oversight, increased efficiency in city operations and improved customer service.

This plan would have a future budget impact. With the Directors of our larger Department's all being around the $100,000 mark, we would need to consider these positions to have a salary adjustment to approximately $105,000 in Phase II of the salary plan. Promotion of the existing position to a full ACM would have a net effect of approximately $17,000 in Phase II. Adding in the new ACM position would have the full effect of $20,000 plus benefits in Phase II. These adjustments would be included in the FY2021-2022 budget proposal.

Under the current budget, the existing position will be reclassified with no change in salary. The new position will be offered at $85,000 plus benefits. The net impact of reclassification and addition of the new position for this year then is approximately 75% of the annual salary of $85.000 plus benefits and will be presented to the City Council as a budget amendment during the January 2021 meeting.

There would be no administrative assistant position added back into the City Manager's Office. The City Manager and both Assistant City Manager's would be responsible for their own administrative work.

Net Effect

The full net effect of all proposed changes at the conclusion of Phase II to the Human Resource Department, City Clerk Department and City Manager's Office would be approximately $132,000 annually.

CITY OF
LA MARQUE, TX
GATEWAY TO THE GULF

TO: Human Resources
Finance
FROM: Charles Jackson, City Manager
DATE: December 21, 2020
SUBJECT: **City Manager's Office - Reclassification - New Position - Division of Work and Assignment of Duties**

Effective December 17, 2020, Charlene Warren's position of Assistant to the City Manager has been reclassified to Assistant City Manager. Her salary will not be changed.

Effective December 21, 2020, an additional Assistant City Manager position has been created and will be filled by David Jordan. This position will start at $85,000 per year with full benefits. That position will be assigned a city cell phone and will be assigned the vehicle previously assigned to the Mayor. There should be no other stipends required for this position.

DUTIES

The creation of these two positions is necessary to meet current and future responsibilities in the City Manager's Office. The additional position will allow increased access to the City Manager's Office for our citizens and ensure that the office is capable of providing a timelier response to current issues. It will also provide more daily interaction with each city department.

Ms. Warren's position will have primary responsibility to be the POC for the following departments and their related boards:

1) Public Works
2) Library
3) Code Enforcement
4) Utility Billing
5) Municipal Court
6) IT

Mr. Jordan's Position will have primary responsibility to be the POC for the following departments:

1) Police
2) Fire

The City Manager will retain primary responsibility to be the POC for the following departments and their related boards:

1) Development Services / Legal
2) Finance – General
3) Economic Development
4) Public Relations and Appointed PIO Positions
5) City Clerk
6) Human Resources

If you have any questions related to this change, please advise.

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CITY COUNCIL AGENDA FORM

TMeeting Date:	January 11, 2021	Agenda item:	**5d**
Prepared by:	Charlene Warren	Reviewed by:	Charlene Warren/ Charles Jackson
Department:	Administration		

AGENDA ITEM DESCRIPTION: Discussion relating to City Manager's update on city operations during COVID-19

☒

ATTACHMENTS FOR REFERENCE

1. Memo

STAFF BRIEFING:

- At the December 14, 2020 Council meeting, Council requested staff to provide an operations update for COVID-19

HISTORY: N/A

TARGET IMPLEMENTATION: N/A

SIGNIFICANT ACTION DATES: N/A

ACTION:

☐ Ordinance ☐ Resolution

☐ Special Presentation ☐ Proclamation

☐ Finance Report ☐ Public Hearing

☒ Other - Report

☒ 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 Council discussion

FISCAL IMPACT: N/A

CITY OF LA MARQUE, TX
GATEWAY TO THE GULF

TO: Mayor Keith Bell
City of La Marque City Council
FROM: Charles Jackson, City Manager
DATE: January 11, 2021
SUBJECT: **Requested COVID Operations Plan - 2021**

As requested, below is a discussion related to anticipated COVID-19 Operations for 2021 in the City of La Marque. This plan is based on current statistics, new virus challenges, past experiences and operational awareness.

GENERAL COMMENTS

City operations were originally altered due to COVID-19 on March 13, 2020. As the virus continued to progress and expand, additional measures were added. By June 1, 2020, city administration had a fully implemented COVID-19 operations plan. That plan was utilized throughout 2020 and is still in place for the beginning of 2021. At the regular monthly meeting of the La Marque City Council in December, the City Council requested an "assessment with criteria for continued city operations with timelines included". This document will address that request as completely as possible.

GENERAL HEALTH, SAFETY AND WELFARE

There have been numerous orders issued by the Governor related to the pandemic. Those orders have limited everything from the number of people allowed to gather in a location to the amount of people who can be in a business at the same time. The original order was implemented in March of 2020, and as amended is still in place. As a city, we also issued orders at the beginning of the pandemic related to business operations. Our proactive approach, based on numbers reported by the health district, appeared to have slowed the spread of the virus in La Marque at the onset of the virus.

As administration of the city, some early decisions were made to protect our citizens and our employees. All buildings were closed to the public. Staffing was arranged in a manner to ensure adequate coverage in each office daily, while keeping directors and assistant directors separated from each other to guarantee department continuity in case of infection. All available protocols were put into place including daily temperature checks, mask requirements and proper distancing to further reduce potential spread of the virus.

In early May, we had our first cases of COVID-19 within the city staff. We immediately scheduled a mandatory testing date with UTMB for all employees. A total of nine (9) employees tested positive, including four (4) who were asymptomatic. All positive employees were placed on quarantine immediately, and those that had been exposed were also removed from the workplace to stop the spread.

Upon completion of the internal quarantine, and control of the virus among staff, senior staff further considered methods to keep the staff safe. Mandatory temperature checks were initiated in each building. Internal tracing requirements for those exposed were added. Guidance for exposures and quarantines were updated to current methodologies as provided to the city by UTMB. Testing programs were implemented for those with symptoms. Every precaution was taken to ensure the health of our employees so that we could continue to provide all necessary services to our citizens.

It should be noted that not only have we maintained all services to our citizens, but we have been able to improve many services as well. The list of improvements would be exhaustive; however, certain ones should be noted. In our Municipal Court we were able to implement virtual court proceedings allowing interactions with the judge in a virus-free environment. Our Development Services Department has been able to transition to a fully online application and approval processing. The Library has added numerous online services including virtual tutoring that is available for all of our citizens in the city.

CURRENT STATE OF COVID IN GALVESTON COUNTY AND LA MARQUE

Recent reports from the Galveston County Health District show an alarming upward trend in positive cases throughout the county. The weekly positivity rate for the week of December 27 – January 2 was 20.5%. That is one of the highest weekly totals we have seen since the beginning of the pandemic. Hospitalization rates are also rising significantly again, with days approaching 100% capacity.

The vaccine is now available to a minimum number of people in the County. Medical professionals were given access first. Front line health care workers and a limited number of 65-year-old plus individuals are getting access now. First responders will be next. The timeline for full access is yet unknown. It also should be noted that those receiving the vaccine at this point have only received the first dose. They have not received the second dose yet.

There are also numerous unknowns with the vaccine, including among other things the actual effectiveness of the vaccine. Due to the significant number of unknown factors related to the vaccine, the CDC has stated they are unsure the vaccine will have the original believed effectiveness since many are choosing not to take it.

As this memo is being prepared, the current number of new cases for a single day was reported at 312 in Galveston County, making it one of the worst days for new cases since the pandemic started and the City of Galveston has reclosed all of their city offices after attempting to reopen and have an outbreak among city staff members.

OTHER FACTORS OF CONCERN

As a city, we must also be cognizant of the potential additional costs to the General Fund that could arise from a faulty operations plan. As a city last year we were faced with a significant increase in our annual health care premiums due to a single claim that was filed on behalf of an employee. One employee requiring intensive care treatment for this virus could literally end in a situation where our health care coverage would have to be dropped to ineffective levels or even dropped completely. A failure to provide health care to our employees would undoubtedly lead to the loss of our top performers and would make recruitment of future employees significantly more difficult. Cities like League City, Texas City and Galveston will be faced with this challenge in the coming year because their operation plans failed to protect their employees and their health care costs have skyrocketed due to this.

Additionally, there is the concern of liability that could befall the city if a citizen was to contract the virus within the confines of one of our buildings. This possible liability is an area that has not fully developed yet, and the actual possible liabilities have yet to be determined by a court – however, it is a real possibility.

CONTINUED OPERATIONS PLAN

As a local government, I do not believe we have the right to force our employees to take the vaccine. As such, we will continue to monitor new cases and adjust operation plans accordingly.

As requested, my proposal is to maintain our current operational safety provisions through the end of March. Our safety measures are proven to work. Our staff has been impacted minimally by the virus. The affects we have seen in our staff have been external and not internal. The measures have also ensured that we as a city staff have not been the cause of a single citizen contracting the virus. That value cannot be ignored. We have proven that we can provide all services, and many more efficiently, under our current form of virtual interaction.

The alternative has been demonstrated to not be effective. Recent news from neighboring cities including League City where an entire department was infected, the mayor ended up in ICU and another council member tested positive, Texas City who sadly lost an employee who contracted the virus, Galveston that has been forced to close its doors due to the spread among employees, and others clearly shows any attempt at a hybrid form of operations can be costly.

PROPOSED CRITERIA FOR REOPENING

The most significant direct data available to the City of La Marque to use to determine the status of virus spread is the testing positivity rate provided by the Galveston County Health District. The following criteria is recommended be used to trigger re-evaluation of reopening under this plan.

1) The weekly positivity rate must be less than 5% for the previous week; and
2) The weekly positivity rate trend must be decreasing for 3 consecutive weeks prior.

When the above criteria are met, we will evaluate reopening at the beginning of the following week.

If a decision is made to reopen, offices will remain reopened until weekly positivity rates exceed the 5% threshold for two consecutive weeks. At that point, we would consider closure again until the established criteria are met again.

SUMMARY

As a city, we have the paramount responsibility to provide for the health, safety and welfare of our citizens. The current operations plan has protected both our citizens and our staff and has proven to be the most effective plan implemented by any city around to effectively slow the spread of the virus. This proposal maintains that plan until clear criteria based on the best local scientific data have been met.

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CITY COUNCIL AGENDA FORM

Meeting Date: January 11, 2021 | Agenda item: **5e**

Prepared by: Charlene Warren | Reviewed by: Charlene Warren/ Charles Jackson

Department: Administration

AGENDA ITEM DESCRIPTION: Discussion relating to approving creation of the City Manager Diversity Advisory Council

X

ATTACHMENTS FOR REFERENCE

1. Memo

STAFF BRIEFING:

- To better serve the historically underserved and underrepresented groups within our city, City Manager is requesting to create a Diversity Advisory Council (DAC)
- Proposed DAC would be a standing council to meet monthly to discuss local issues, including recent events to historic needs within our city
- Former Councilmember Chris Lane has agreed to serve as the initial chairman of the council

HISTORY: N/A

TARGET IMPLEMENTATION: January 11, 2021

SIGNIFICANT ACTION DATES: N/A

ACTION:

- ☐ Ordinance
- ☐ Resolution
- ☐ Special Presentation
- ☐ Proclamation
- ☐ Finance Report
- ☐ Public Hearing
- ☒ Other – Diversity Advisory Council
- ☒ 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

STAFF'S RECOMMENDATION: Recommend to approve creation of the City Manager Diversity Advisory Council

FISCAL IMPACT: N/A

TO: Mayor Keith Bell
City of La Marque City Council
FROM: Charles Jackson, City Manager
DATE: January 11, 2021
SUBJECT: **Creation of City Manager Diversity Advisory Council**

To better serve the historically underserved and underrepresented groups within our city, I am asking the Council to recognize the creation of a City Manager Diversity Advisory Council. This would be a standing council that would meet monthly with the City Manager and Assistant City Managers to discuss local issues. These issues will include everything from recent events to historic needs within our city. The council will be made up of a minimum of seven (7) individuals selected from groups who have not historically had a voice in city government. The advisory council will at no time exceed 15 members.

INITIAL COUNCIL

The inaugural council will be selected based on discussions held over the last month with numerous individuals/groups since the officer-involved shooting on December 9, 2020. The intent of this advisory council is to get a group of non-divisive individuals that will represent the unheard voices of our community; the young, the non-political and the underserved. The selection of members of the council will not be political. Recommendations for members will come from the community. Numerous people have already been recommended and/or have volunteered to serve.

This council will have no official standing within the structure of city boards and commissions. It will be precisely as named, an advisory council to the City Manager to be a sounding/spring board for new ideas, a voice for those we never hear from on policy implementation and a dissemination group for information that we need our citizens to know and understand.

I have asked Chris Lane to serve as the initial chairman of the council. He has agreed. Mr. Lane's chairmanship will not count towards the total membership. One seat will be reserved on the council for a representative of a new youth advisory council (under 18 years of age) we will be working on in the near future.