

RESOLUTION NO. _____

A RESOLUTION OF THE CITY OF DEER PARK APPROVING THE CERTIFICATE OF FORMATION AND BYLAWS OF TEXAS COALITION FOR AFFORDABLE POWER (“TCAP”), A POLITICAL SUBDIVISION CORPORATION; ACCEPTING MEMBERSHIP IN SAID CORPORATION; APPROVING THE PROFESSIONAL SERVICES AGREEMENT; AND COMMITTING TO BUDGET FOR ENERGY PURCHASES AND TO HONOR THE CITY’S COMMITMENTS TO PURCHASE POWER FOR ITS ELECTRICAL NEEDS THROUGH TCAP AND ADOPTING TCAP’S GEXA ENERGY’S COMMERCIAL ELECTRIC SERVICE AGREEMENT FOR POWER TO BE PROVIDED ON AND AFTER _____

WHEREAS, Chapter 304 of the Texas Local Government Code, entitled Energy Aggregation Measures for Local Governments, allows political subdivisions to form a political subdivision corporation to act as an agent to negotiate the purchase of electricity, or to likewise aid or act on behalf of the political subdivisions for which the corporation is created, with respect to their own electricity use for their respective public facilities; and

WHEREAS, Texas Coalition for Affordable Power (“TCAP”) is a political subdivision corporation organized under said Chapter; and

WHEREAS, more than one hundred-sixty (160) cities and other political subdivisions have joined TCAP since the Texas electric retail market was deregulated January 1, 2002; and

WHEREAS, TCAP members work collaboratively with the assistance of attorneys and procurements experts hired by TCAP to negotiate lower cost, reliable electric power with price stability; and

WHEREAS, the negotiation for electricity by the corporation should result in lower, more stable electricity costs to the City of Deer Park; and

WHEREAS, the City of Deer Park seeks to become a Member of TCAP; and

WHEREAS, TCAP has prepared a Professional Services Agreement (“PSA”), attached as Exhibit C, 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.

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, the CESA that will facilitate participation in the SHP effective for power deliveries in and beyond _____ (attached as Exhibit D)

NOW THEREFORE, BE IT RESOLVED BY THE CITY OF DEER PARK.

Section 1. The recitals contained in the preamble of this Resolution are determined to be true and correct and are hereby adopted as a part of this Resolution.

Section 2. The Certificate of Formation and Bylaws of TCAP, a political subdivision corporation, attached hereto and incorporated herein for all purposes as Exhibits A and B respectively, are hereby approved.

Section 3. The City of Deer Park accepts Membership in TCAP.

Section 4. That the City Manager is authorized to sign TCAP's Professional Services Agreement.(Exhibit C) and Gexa Energy's Commercial Service Electricity Agreement (CESA) (Exhibit D)

Section 5. The City will commit to purchase power to meet all of its electricity needs eligible for competition pursuant to the TCAP approved supply agreement and approve funds necessary to pay electricity costs proportionate to the City's load under the supply agreement (whether wholesale or retail) arranged by TCAP and signed by TCAP's Executive Director or President or other TCAP representatives authorized by the TCAP Board.

Section 6. All Resolutions and parts thereof in conflict herewith are hereby expressly repealed insofar as they conflict herewith.

Section 7. That if any one or more sections or clauses of this Resolution is adjudged to be unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remaining provisions of this Resolution and the remaining provisions of the Resolution shall be interpreted as if the offending section or clause never existed.

Section 8. This Resolution shall take effect immediately from and after its adoption and it is accordingly so resolved.

Section 9. A copy of this Resolution along with the Professional Services Agreement and Gexa Energy's CESA shall be sent to TCAP, 15455 Dallas Parkway, Suite 600, Addison, Texas 75001.

PASSED AND APPROVED this _____ day of _____, 2023

MAYOR

ATTEST:

City Secretary

APPROVED AS TO FORM:

City Attorney