

**RESOLUTION NO. 833**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TERRELL, TEXAS, AUTHORIZING THE TEXAS COALITION FOR AFFORDABLE POWER, INC. (TCAP) TO NEGOTIATE AN ELECTRIC SUPPLY AGREEMENT FOR FIVE YEARS FOR DELIVERIES OF ELECTRICITY EFFECTIVE JANUARY 1, 2018; AUTHORIZING TCAP TO ACT AS AN AGENT ON BEHALF OF THE CITY TO ENTER INTO A CONTRACT FOR ELECTRICITY; AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE AN ELECTRIC SUPPLY AGREEMENT FOR DELIVERIES OF ELECTRICITY EFFECTIVE JANUARY 1, 2018 AND COMMITTING TO BUDGET FOR ENERGY PURCHASES IN 2018 THROUGH 2022 AND TO HONOR THE CITY'S COMMITMENTS TO PURCHASE POWER FOR ITS ELECTRICAL NEEDS IN 2018 THROUGH 2022 THROUGH TCAP**

1. **WHEREAS**, the CITY OF TERRELL, TEXAS (City) has been a member of TEXAS COALITION FOR AFFORDABLE POWER (TCAP), a non-profit corporation dedicated to securing electric power for its more than 170 members in the competitive retail market; and

2. **WHEREAS**, TCAP has unique rights under Texas law to negotiate directly in the wholesale market and arrange separate contracts for power supply and retail services which provides TCAP leverage to achieve contract provisions that single city negotiations with a Retail Electric Provider (REP) would be unlikely to produce; and

3. **WHEREAS**, TCAP's geographic diversity across all four ERCOT zones produces an aggregated peak load that is lower than the total of individual peak loads of the individual TCAP members, allowing price benefits in the wholesale market that are not likely to be available to any given TCAP member alone; and

4. **WHEREAS**, TCAP and its predecessor organizations, Cities Aggregation Power Project, Inc. (CAPP) and South Texas Aggregation Project, Inc. (STAP), negotiated favorable

contract terms that resulted in rebates from the wholesale supplier and reasonable commodity prices for delivered electricity since 2002 resulting in stable budgets for electricity for members; and

5. **WHEREAS**, commodity prices for electricity experienced significant volatility between 2002 and 2009, with prices ranging from 4 cents to over 13 cents per kWh, causing CAPP and STAP members to welcome a five-year contractual commitment that came close to cutting the 2008 prices in half, with that contract being extended until December 31, 2017, with a negotiated price reduction of about 1 cent per kWh; and

6. **WHEREAS**, TCAP has become a forceful voice for consumer protections and market reform to benefit the public and well as cities and other political subdivisions; and

7. **WHEREAS**, TCAP is owned by its members and distributes monetary and other resources according to relative load size of members and is controlled by a 15-member Board of Directors, all of whom must be city employees of members who represent diversity in size and geography; and

8. **WHEREAS**, wholesale power prices within the deregulated Texas market are largely determined by the NYMEX gas futures prices for natural gas which are currently low and relatively stable, but which change daily; and

9. **WHEREAS**, daily price changes require retail customers to execute a contract immediately upon receipt of a favorable offer; and

10. **WHEREAS**, pursuant to Texas Local Government Code Section 252.022(a)(15) expenditures for electricity are exempt from competitive bidding requirements; and

11. **WHEREAS**, on any given day, TCAP is able to capture a favorable wholesale price for any period of time, comparable to or better than any given REP or broker; and

12. **WHEREAS**, TCAP intends to continue to contract with its current wholesale supplier, NextEra, because the relationship with NextEra is such that NextEra is willing, after it knows the size of a given load, to execute a contract at or below prescribed price and terms; and

13. **WHEREAS**, the City desires to execute a contract for electricity for the period beyond the expiration of its current contract on December 31, 2017, that locks-in favorable wholesale prices; and

14. **WHEREAS**, City desires to participate in this opportunity to contract for post-2017 electrical supply, and allow NextEra until December 31, 2016 to contract for power for five years at a price not to exceed 3.775 cents per kWh in the North zone; and

15. **WHEREAS**, wholesale suppliers demand assurance that TCAP will pay for all contracted load; and

16. **WHEREAS**, the City needs to assure TCAP that it will sign a Commercial Electric Supply Agreement (CESA) reflecting the contract extension and budget for energy purchases for the post-2017 period and honor its commitment to purchase power for its electrical needs for 2018 through 2022 through TCAP.

**THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TERRELL, TEXAS:**

**Section 1:**

That the TCAP Board of Directors and its consultants and advisors are agents authorized to negotiate for the City's electricity needs as a member of TCAP for the period 2018 through 2022 at a price not to exceed 3.775 cents per kWh for the North zone;

**Section 2:**

That the City prefers to participate in a full-requirement, fixed-price or other supply option as it may agree upon;

**Section 3:**

Assuming this Resolution is passed and NextEra is able to provide TCAP an opportunity prior to December 31, 2016 to contract for power to be delivered to members at a price not to exceed 3.775 cents per kWh for the North zone, the City Manager or his designee is hereby authorized to sign an electric supply agreement for the City within 24 hours of

receipt of a contract that has been approved and recommended by the TCAP Board of Directors.

**Section 4:**

That 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 5:**

That a copy of this Resolution shall be sent to Jay Doegey, Executive Director, TCAP, 15455 Dallas Parkway, Suite 600, Addison, Texas 75001 and Geoffrey M. Gay, legal counsel to TCAP at 816 Congress Avenue, Suite 1900, Austin, Texas 78701.

**PASSED AND APPROVED** on this the 18th day of October, 2016, at a regular meeting of the City Council of Terrell, Texas.

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Mayor

ATTEST:

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City Secretary