

**NOTICE AND AGENDA FOR A SPECIAL MEETING OF THE
CITY COMMISSION OF THE CITY OF VERNON
1725 WILBARGER STREET
TUESDAY, AUGUST 11, 2020 AT 6:30 PM**

1. Call to Order:
 - A. Declaration of Quorum
 - B. Invocation
 - C. Pledge of Allegiance
2. Discussion, Consideration and Take Possible Action on Proposed 2020 Property Tax Rate
3. Discussion, Consideration and Take Possible Action on setting a Public Hearing on Proposed 2020 Property Tax Rate on September 15, 2020
4. Discussion, Consideration and Take Possible Action on setting a Public Hearing for City of Vernon 2020/2021 Proposed Budget on August 25, 2020
5. Discussion, Consideration and Take Possible Action to Order General Election for the City of Vernon on November 3, 2020 for Mayor and Commissioner Precinct 1 and Precinct 2 – Resolution Number 1052
6. Discussion, Consideration and Take Possible Action on Resolution Number 1050 adopting TCAP's professional services agreement and GEXAA Energy's commercial electric service agreement
7. Discussion, Consideration and Take Possible Action the purchase of four Rotary Aerators for the Wastewater Treatment Plant
8. Discussion, Consideration and Take Possible Action on a request from Relay for Life to close Fannin Street between Paradise and Wichita Street on August 22, 2020 from 2:00 pm to 6:00 pm
9. Adjourn

The City Commission may convene a public meeting and then recess into Closed Executive Session, to discuss any of the items listed on this agenda, if necessary, and if authorized under chapter 551 of the Texas Government Code. A Closed Executive Session may be authorized by law to include, but not limited to: (1) consulting with the Council's Attorney to seek or receive legal advice concerning pending or contemplated litigation, a settlement offer, or any other matter in which the ethical duty of the attorney to the Commission clearly conflicts with the general requirement that all meetings be open, § 551.071; (2) discussing the purchase, exchange, lease, or value of real property, § 551.072; (3) discussing a prospective gift or donation, § 551.073; (4) discussing certain personnel matters, § 551.074; and (5) discussing security personnel or devices, § 551.076.

Vernon City Hall is accessible to individuals with disabilities through its main entry on the north side (1725 Wilbarger Street) of the building. An access ramp leading to the sidewalk serving City Hall is located at the northwest corner of the building. Parking space for an individual with disabilities is available in the west parking lot. Request for accommodations or interpretive services must be made 48 hours prior to this meeting. Please contact the City Secretary's office at (940) 552-2581 or FAX (940) 552-0569 for further information.

**The Office of the Attorney General temporarily suspended certain open-meeting provisions of the Texas Law.
TEX. GOV'T CODE §§ 551.041, 551.043–551.044, 551.125(c), 551.127(d), 551.141, §§ 551.125(e), 551.127(g),
§§ 551.007(b), 551.125(e)**

The meeting will be streamed on Facebook Live beginning at 6:30. If you have any questions or comments please respond by email citysec@vernontx.gov or call City Secretary (940) 552-2581 with questions or concerns prior to the meeting which will be read publicly.

CERTIFICATE

I, Marsha Jo Stone, City Secretary, do hereby certify that a copy of the August 11, 2020 Special Meeting of the Vernon City Commission

Agenda was posted on: 8-6-2020 at 5:00 am/pm

Marsha Jo Stone

Removed on: _____ By: _____

CITY OF VERNON
COMMISSIONER MEETING

MEETING DATE: August 11, 2020

DEPARTMENT: City Manager

AUTHOR: Marty Mangum

AGENDA ITEM: Discuss, consider, and take possible action on proposed 2020 property tax rate

BACKGROUND: The City Commission needs to vote on a proposed ad valorem tax rate for 2020. Our budget anticipates a proposed tax rate of .53422 per \$100 valuation down from .56471 from last year. This new rate is primarily lower due to lower Interest and Sinking Fund requirements this year. This debt part of the ad valorem tax rate was .15229 because we had debt payments of \$633,250 last year. This year's debt payment is \$495,625 or .11604 per \$100 valuation. Therefore, our total tax rate is lower than last year while we are still increasing our Maintenance and Operations part of the tax rate from .41242 to .41818 per \$100 valuation.

ATTACHMENT(S): NOTICE OF MEETING TO VOTE ON TAX RATE

NOTICE OF MEETING TO VOTE ON TAX RATE

PROPOSED TAX RATE
NO-NEW REVENUE TAX RATE
VOTER-APPROVAL TAX RATE

0.53422 per \$100
0.55243 per \$100
0.53423 per \$100

The no-new-revenue tax rate is the tax rate for the 2020 tax year that will raise the same amount of property tax revenue for City of Vernon from the same properties in both the 2019 tax year and the 2020 tax year.

The voter-approval tax rate is the highest tax rate that City of Vernon may adopt without holding an election to seek voter approval of the rate.

A public meeting to vote on the proposed tax rate will be held on September 15, 2020 at 6:30 PM at 1725 Wilbarger Street Vernon Texas.

The proposed tax rate is also not greater than the voter-approval tax rate. As a result, City of Vernon is not required to hold an election at which voter approval of the rate. However, you may express your support for or opposition to the proposed tax rate by contacting the members of the City of Vernon at their offices or by attending the public meeting mentioned above.

YOUR TAXES OWED UNDER ANY OF THE ABOVE RATES CAN BE CALCULATED AS FOLLOWS:

property tax amount = (tax rate) X (taxable value of your property)/100

The members of the governing body voted on the proposed tax increase as follows:

FOR:

AGAINST:

PRESENT and not voting:

ABSENT:

The 86th Texas Legislature modified the manner in which the voter-approval tax rate is calculated to limit the rate of growth of property taxes in the state.

The following table compares the taxes imposed on the average residence homestead by City of Vernon last year to the taxes proposed to be imposed on the average residence homestead by City of Vernon this year:

	2019	2020	Change		
Total Tax Rate (per \$100 of value)	0.56471	0.53422	decrease of	-\$0.03049 OR	-5.40%
Average homestead taxable value	68,508	69,587	increase of	1.57%	
Tax on average homestead	386.87	371.75	increase of	-\$15 OR	-3.90%
Total tax levy on all properties	2,343,403	2,264,962	increase of	-\$78,441 OR	-3.34%

For assistance with tax calculations, please contact the tax assessor for City of Vernon at 940-552-9341 or scampsey@co.wilbarger.tx.us, or visit wilbargertax.org for more information.

**CITY OF VERNON
COMMISSIONER MEETING**

MEETING DATE: August 11, 2020

DEPARTMENT: City Manager

AUTHOR: Marty Mangum

AGENDA ITEM: Discussion, Consideration and Take Possible Action on setting a Public Hearing on Proposed 2020 Property Tax Rate on September 15, 2020.

BACKGROUND:

ATTACHMENT(S):

FINANCIAL IMPACT: None

**CITY OF VERNON
COMMISSIONER MEETING**

MEETING DATE: August 11, 2020

DEPARTMENT: City Manager

AUTHOR: Marty Mangum

AGENDA ITEM: Discussion, Consideration and Take Possible Action on setting a Public Hearing for City of Vernon 2020/2021 Proposed Budget on August 25, 2020

BACKGROUND:

ATTACHMENT(S):

FINANCIAL IMPACT: None

PUBLIC NOTICE

Notice is hereby given that on the 25th day of August, 2020, at 6:30 p.m., the City Commission will hold a public hearing on the proposed FY 2020-2021 Budget. All local taxpayers may attend and participate in the hearing. Said hearing will be held in City Hall, located at 1725 Wilbarger St. in Vernon, Texas. The proposed budget will include revenues and expenditures for operations, maintenance and debt service for the fiscal period beginning October 1, 2020 and ending September 30, 2021.

Publish August 12, 2020

**CITY OF VERNON
COMMISSIONER MEETING**

MEETING DATE: August 11, 2020

DEPARTMENT: City Secretary

AUTHOR: Marsha Jo Stone

AGENDA ITEM: Discussion, Consideration and Take Possible Action to Order General Election for the City of Vernon on November 3, 2020 for Mayor and Commissioner Precinct 1 and Precinct 2

BACKGROUND:

ATTACHMENT(S): Order of General Election for the City of Vernon
Resolution Number 1052

FINANCIAL IMPACT: None

RESOLUTION NO. 1052

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF VERNON, TEXAS, CALLING A GENERAL ELECTION FOR THE PURPOSE OF FILLING THE OFFICES OF MAYOR, CITY COMMISSIONER PRECINCTS 1 AND 2; ESTABLISHING THE DATES AND TIMES OF EARLY VOTING FOR SUCH ELECTION; AND AUTHORIZING AN AGREEMENT WITH WILBARGER COUNTY TO FURNISH ELECTION SERVICES AND EQUIPMENT; AUTHORIZING AN INTERLOCAL AGREEMENT WITH VERNON ISD TO SPLIT COSTS OF ELECTION.

WHEREAS, pursuant to the Election Code of the State of Texas and the Vernon City Charter, it is provided that there shall be held in each municipality in the State of Texas, a general election for the purpose of electing officials of said municipality; and

WHEREAS, the City of Vernon City Commission has determined that an agreement with Wilbarger County for election services and equipment is in the best interest of the City of Vernon.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF VERNON, TEXAS, THAT:

SECTION 1.

The City Commission of the City of Vernon, Texas, at a regular meeting held this date, does hereby order an election of officers for the City of Vernon, Texas, to be held on the first Tuesday in November, that being November 3, 2020, for the purpose of electing a Mayor, one City Commissioner for Precinct 1, one City Commissioner for Precinct 2, who shall each serve for a period of two years or until their successors have been duly qualified. The candidate receiving a majority of the votes cast for said race shall be declared elected to such office.

SECTION 2.

The Mayor is hereby authorized to execute an interlocal agreement with Wilbarger County for the purpose of having Wilbarger County furnish some election services and all equipment needed by the City Secretary to conduct the election. The contract document and election services provided therein shall conform to the requirements of the Texas Election Code and other applicable statutes and laws.

SECTION 3.

The election services contract shall provide (a) the type of electronic voting equipment to be used for early voting by personal appearance and on election day, (b) notification and training for election judges and clerks, (c) an estimate and final payment terms for the election services provided, (d) agreements for early voting equipment and voting machine rental, and (e) other procedures to conduct the election.

SECTION 4.

Marsha Jo Stone, City of Vernon City Secretary 1725 Wilbarger St, Vernon, Texas, 76384, is hereby appointed as Early Voting Clerk and Vicky Lee, Utility Clerk, 1725 Wilbarger St, Vernon, Texas, 76384, shall serve as Deputy Early Voting Clerk.

Applications for ballot by mail must be received by mail no later than the close of business on Friday, October 9, 2020 (Mailing Address: 1725 Wilbarger St, Vernon, Texas, 76384; Attention: Marsha Jo Stone, Early Voting Clerk.)

SECTION 5.

Early voting by personal appearance shall be conducted at the Wilbarger County Memorial Auditorium 2100 Yamparika Street, Vernon, TX 76384.

October 13 - 28	(Monday - Friday)	8:00 a.m. to 5:00 p.m.
October 29	(Thursday)	7:00 a.m. to 7:00 p.m.
October 30	(Friday)	7:00 a.m. to 7:00 p.m.
November 3	(Tuesday)	7:00 a.m. to 7:00 p.m.

SECTION 6.

Election Judge for voting by personal appearance shall be conducted by Wilbarger County election officials:

Judge (Juez)

Alternate Judge (Juez alternative)

SECTION 7.

Early voting ballot board shall be:

Don Ramsey, Judge (Juez)

Jean Graf, Alternate Judge (Juez alternative)

Gene Tyra, Member (miembro)

Mamie McArther, Member (miembro)

Kathy Craighead, Member (miembro)

SECTION 8.

Election Judge shall be paid at the rate of \$10.00 per hour.

Election workers shall be paid at the rate of \$9.00 per hour.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF VERNON, TEXAS:

PASSED, ADOPTED and APPROVED on this the 11th day of August, 2020.

Pam Gosline, IV, Mayor

ATTEST:

Marsha Jo Stone, City Secretary

**ORDER OF GENERAL ELECTION FOR THE CITY OF VERNON
(AVISO DE ELECCION GENERAL PARA LA CIUDAD DE VERNON)**

An election is hereby ordered to be held on November 3, 2020 for the purpose of:
(Se ordena una elección el 3 de November de 2020 con el propósito de:)

Mayor
(Alcalde)

Commissioner Precinct 1
(Comisionado Precinto 1)

Commissioner Precinct 2
(Comisionado Precinto 2)

**Early voting by personal appearance will be conducted each weekday at
(La votación adelantada en persona se llevará a cabo de Lunes a Viernes en)**

Wilbarger County Memorial Auditorium
2100 Yamparika Street
Vernon, Texas

**Between the hours of 8:00 a.m. and 4:00 p.m. beginning October 13, 2020
and ending on October 30, 2020, The last two days of early voting will be extended from 7:00 a.m. to
7:00 p.m.**

(entre las 8:00 de la mañana y las 4:00 de la tarde empezando el 13 de October, 2020 y terminando el 30 de October, 2020. Los últimos dos días de votación adelantada serán extendidos de las 7:00 a.m. hasta las 7:00 p.m.)

Applications for ballot by mail shall be mailed to:

(Las solicitudes para boletas que se votaran en ausencia por correo deberán enviarse a:)

Marsha Jo Stone

Name of Early Voting Clerk
(Nombre del Secretario de la Votación Adelantada)
1725 Wilbarger Street
(Address) (Dirección)
Vernon, Texas 76384
(City) (Ciudad) (Zip Code) (Zona Postal)

Applications for ballot by mail must be received no later than the close of business October 9, 2020.

(Las solicitudes para boletas que se votaran en ausencia por correo deberán recibirse para el fin de las horas de negocio el 9 de October, 2020)

Issued this 11th day of August, 2020

(Emitada este dia 11 de August, 2020)

Signature of Mayor
(Firma del Alcalde)

Signature of Councilperson
(Firma de la Persona del Concilio)

Signature of Councilperson
(Firma de la Persona del Concilio)

Signature of Councilperson
(Firma de la Persona del Concilio)

CITY OF VERNON
COMMISSIONER MEETING

MEETING DATE: August 11, 2020

DEPARTMENT: City Manager

AUTHOR: Marty Mangum

AGENDA ITEM: Discuss, consider and take possible action on Resolution Number 1050 adopting TCAP's professional services agreement and GEXAA Energy's commercial electric service agreement.

BACKGROUND: For several years the City of Vernon has procured its electrical power from a coalition for Affordable Power organization. It has served us well as we have gotten electrical power for about 8 ½ to 9 ½ cents per KWH including all charges such as AEP Transmission costs, Aggregator Charges, Congestion Charges, and regulatory charges. If we want to continue to buy our power through this pool of governments, we need to pass Resolution Number 1050.

ATTACHMENT(S): Resolution 1050, Summary of Benefits, Contract for Services.

RESOLUTION NO. 1050

**RESOLUTION OF THE CITY OF CITY OF VERNON
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 Vernon, Tx 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 1, 2020; and

WHEREAS, the City desires to participate in the SHP.

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

SECTION 1. That 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 AND APPROVED this _____ day of _____, 2019.

PAM GOSLINE, MAYOR

ATTEST:

MARSHA JO STONE, CITY SECRETARY

APPROVED AS TO FORM:

JON WHITSITT, CITY ATTORNEY



Background.

Texas Coalition for Affordable Power has procured electricity for its members since the beginning of retail electric deregulation in Texas in 2002. In the recent past, it has become evident that the electric market and the mix of available sources and supplies have changed dramatically. While the current electric fixed price/fixed term contract has worked well, TCAP believes that a more optimum program—called Strategic Hedging Program (SHP)—will now be offered to its members. In recent years, the United States has become the world's largest supplier of oil and natural gas, particularly with the development of fracking technology. The DOE production estimate through 2050 shows a well-supplied market and stable price outlook. There has also been a tremendous growth in renewable energy sources such as wind and solar power.

What is SHP?

Instead of buying electricity through a fixed price longer term contract, SHP will procure one twelfth of the annual supply each month, two years forward year-to-year. This provides the lowest market pricing to reduce carrying charges and risk premiums that longer term contracts must charge. Pricing will never be out of the market. SHP features an ultra-competitive RFP process of 20+ vetted creditworthy suppliers. At least 4 suppliers will be in each TCAP portfolio at all times. Prices will be known to members well prior to fiscal year budgeting needs. It avoids the "all-in" guess of a single fixed price multi-year deal. It also provides members with twice a year periodic off ramps if a member desires to revert to a traditional fixed price/fixed term contract.

What action needs to be taken and when?

In order to prepare for an electric supply contract beyond the 2022, it is necessary for members to have their governmental bodies pass the enclosed resolution to approve the Professional Services Agreement and the Commercial Electricity Service Agreement. The resolution authorizes TCAP to function as a procurer of energy in addition to serving as an agent in negotiating contracts. While SHP is the default option, members may opt out by filling out the Authorized Election Form attached as Exhibit A of the PSA and have a traditional fixed price/fixed term contract post-2022. *However, it is important that members intending to participate in SHP do so by September 30, 2020 in order to be included in the monthly auctions beginning in January 2021.*

PROFESSIONAL SERVICES AGREEMENT BETWEEN
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 City of Vernon, Tx (“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. MEMBER may elect to consider fixed-price, fixed-term offers for wholesale power supply, such election to be communicated to TCAP separately in writing by providing an Authorized Election Form to TCAP, the form of which has been attached to this AGREEMENT as Exhibit A. If MEMBER has provided to TCAP an Authorized Election Form, TCAP’s procurement services to MEMBER shall also consist of arranging fixed-price, fixed-term offers to MEMBER following solicitation of competitive offers. TCAP consultants and attorneys will negotiate terms and conditions of all contracts, monitor performance of Energy Managers and REPs, work to avoid and remedy problems that may be encountered by MEMBER where possible, assist MEMBER with wires company issues, and represent MEMBER in energy related matters before State agencies, the courts or legislature. TCAP will provide additional customer services to MEMBER that are defined in SECTION 5.

SECTION 4 OBLIGATIONS AND RIGHTS OF MEMBER:

MEMBER will honor the terms of its CESA and promptly pay or promptly dispute invoices from its REP. MEMBER will comply with the confidentiality and non-disclosure

obligations contained in its CESA and Section 7 of this AGREEMENT. MEMBER will designate one or more individuals to receive notices and updates from TCAP and will promptly update contact information. MEMBER will pay aggregation fees to support the non-profit functions of TCAP assessed annually by the TCAP Board of Directors and recovered as part of the energy charges paid to REP. Also, MEMBER will pay or receive refunds equal to the Quarterly Adjustment and the Annual Adjustment mutually agreed upon by TCAP and the Energy Manager to address certain variable costs and charges, including costs imposed by ERCOT, such payment or receipt of funds subject to the reserve account as further described herein. TCAP members will fund, and TCAP will maintain and administer, a reserve account to facilitate the reconciliation of any Quarterly Adjustments or Annual Adjustments by collecting any excess amounts paid and/or paying any deficient amounts incurred (as possible). The reserve account balance will be maintained at a minimum level to cover anticipated future needs for up to two (2) years. The TCAP Board may vote to refund to members amounts in excess of future anticipated needs. Any monies remaining in the reserve account at the dissolution of TCAP will be refunded to current membership at the time of dissolution. TCAP is owned and controlled by its members and is governed by a Board of Directors consisting of employees or elected officials of members. Consistent with TCAP's Bylaws, each MEMBER has a right to nominate its representative to serve on the Board of Directors and has a right to vote in annual elections of Board members. MEMBER has a right to attend or monitor each Board meeting. TCAP has a financial audit performed each year and MEMBER has a right to a copy of the annual audit upon request.

SECTION 5 TCAP SERVICES TO MEMBER:

A. Procurement of Energy Supplies and REP Services

1. TCAP Procurement Services and Capabilities

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

opportunities. TCAP will also monitor, evaluate and issue requests for proposals for power development opportunities beneficial to its MEMBERS, including renewable projects (each, a “Power Project”).

2. MEMBER Procurement Options

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

B. Customer and Billing Services Provided by TCAP

1. REP Portal

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

2. REP Customer Service

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

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

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

4. Information Services

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

5. Demand Response, Distributed Generation and Cost Savings Strategy

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

6. Regulatory and Legislative Representation

TCAP will provide representation and advocacy services on energy issues relevant to MEMBER in regulatory and legislative areas including, but not limited to, ERCOT stakeholder meetings, PUC projects and dockets, and legislative actions.

7. Strategic Hedging

To the extent that there is sufficient interest and commitment of load of TCAP members within an ERCOT zone, and to the extent MEMBER has not elected a fixed-price contract for a fixed period, MEMBER will perpetually (subject to potential charter or ordinance constraints on length of contracts) commit to two-year participation obligations. MEMBER may terminate participation in the SHP, without energy price penalties and with minimal other termination fees, by providing sufficient notice as set forth herein (Section 6). A SHP price will be determined at least 9 months prior to the effective date of the price by averaging the winning bids from periodic competitive auctions that occur throughout the 24 months preceding the effective date. TCAP will direct Energy Manager to conduct the periodic competitive auctions. TCAP will have the right to audit the auction results. The auction process will be designed to identify competitively priced energy supplies from a variety of creditworthy suppliers, resulting in prices that are rarely, if ever, significantly above prevailing market prices and that should generally be less than pricing for long-term fixed priced contracts (when evaluated from a common contract start date and term). Designed to take advantage of the characteristics of the nation's well supplied energy markets, the SHP will also be flexible enough to respond to market changes when and if they occur in the future. Participation in the SHP may be viewed as a series of 24 -month forward year-to-year contracts for as long as desired by MEMBER. If MEMBER participates in the SHP, MEMBER agrees that TCAP is authorized to direct Energy Manager to procure electric energy in the wholesale market on MEMBER's behalf and that TCAP is authorized to commit MEMBER's load to periodic competitive auctions.

SECTION 6 MEMBER RIGHT OF TERMINATION:

A. Fixed-Term, Fixed-Price Contract

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

B. Strategic Hedging Program

Since the SHP is based on a series of one-year term contracts, MEMBER is entitled to exit the program so long as notice of termination can be given prior to inclusion of MEMBER's load in the competitive auction process for a future year's price. TCAP will periodically notify MEMBER of expected procurement schedules and provide no less than 90 days

prior notice of any upcoming solicitation, and MEMBER may notify TCAP that it wants to exclude its load from the competitive auction process by giving notice at least 60 days prior to the next procurement date. Termination of involvement in SHP without appropriate notice will require calculation of damages as prescribed by CESA under Edison Electric Institute (“EEI”) principles with the intent of making the REP and Energy Manager whole for the termination. Liquidated damages will be based on the differential in the price of electric energy futures contracts used to support the SHP price and the price of comparable electric energy contracts at time of termination and shall also include damages prescribed herein and in the CESA, as applicable. If electric energy prices are lower at the point of termination than they were at time of contracting, MEMBER should expect to pay energy price damages upon early termination. In any event, any termination payment will be calculated and assessed in accordance with MEMBER’s CESA.

C. Participation in Power Projects

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

SECTION 7 CONFIDENTIALITY:

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

SECTION 8 PARAGRAPH HEADINGS:

The paragraph headings contained in this AGREEMENT are for convenience only and shall in 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: Martin Mangum_____

Title: City Manager_____

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 City of Vernon, Texas ("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 1.3 the Term may include a partial calendar month in addition to the number of months set forth in Attachment B, if any.

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

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

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

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

SECTION 2: RETAIL ELECTRIC ENERGY SERVICE CHARGES

2.1 Energy Price.

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

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

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

2.2 Energy Price Adjustments.

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

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

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

SECTION 3: BILLING AND PAYMENT

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

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

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

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

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

SECTION 4: CUSTOMER INFORMATION, CREDIT AND DEPOSITS

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

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

SECTION 5: EARLY TERMINATION; DAMAGES

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

5.2 Customer Early Termination Damages. Except in connection with the closure of a facility associated with an ESI ID pursuant to Section 1.4, in connection with a Force Majeure Event, or as otherwise provided or excused in this Agreement, if Customer cancels this Agreement before the end of the Term and refuses to accept electric supply delivery from Gexa for any ESI ID(s), Gexa may charge Customer early termination damages equal to the sum of (a) the Retail Termination Payment, (b) the QSE Services Termination Payment, (c) the Quarterly and Annual Adjustment Payment, and (d) the Wholesale Transaction Termination Payment, as each of these terms are defined below (the sum total of these, the "Customer Early Termination Damages"). The "Retail Termination Payment" shall equal the product of (a) the Expected Usage for each ESI ID subject to Customer's cancellation or refusal of electric supply delivery ("Customer Terminated Usage") multiplied by (b) the sum of (i) the Aggregator Fee and (ii) the REP Services Fee specified in the REP Services Agreement. The "QSE Services Termination Payment" shall equal the product of (a) the Customer Terminated Usage grossed up for losses multiplied by (b) the QSE Services Fee, as defined in the PSA. The "Quarterly and Annual Adjustment Payment" shall be calculated by the Energy Manager in accordance with the PSA, and shall include any Quarterly and Annual Adjustment amounts for electricity provided to the Customer under this Agreement prior to the termination of this Agreement, which have not yet been charged or credited to Customer, as appropriate. For avoidance of doubt, the Quarterly and Annual Adjustment Payment may be either a charge or a credit to Customer, as calculated in accordance with the PSA. If the Customer Early Termination Damages are charged due to an Event of Default by Customer, then the Customer Early Termination Damages will also include Gexa's reasonable costs relating to the determination and collection of Customer Early Termination Damages, including attorney and consultant fees incurred. The provisions in Section 3 related to Billing and Payment apply to the billing, due date, and collection of Customer Early Termination Damages. Customer agrees that Customer Early Termination Damages are a reasonable estimate of the damages due Gexa for failure to accept electric supply, and are not punitive in nature.

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

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

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 Vernon, Texas
1725 Wilbarger Street
Vernon, Texas 76384

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 Vernon, Texas
1725 Wilbarger Street
Vernon, Texas 76384

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 1.4.

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.

determined by ERCOT for the trading hub and the real-time settlement point price as determined by ERCOT for the load zone associated with the customer Facilities.

17. "Non-Recurring Charges" means any charges imposed by the TDSP or other third parties on a non-recurring basis for services, repairs or additional equipment needed for Customer's electric service.

18. "PUCT" means Public Utility Commission of Texas.

19. "Project Settlement Payment" means the Project Settlement Payment as defined in the Project Addendum, attached as Schedule I to this Agreement.

20. "QSE Services Fee" means the fee owed from Customer to Gexa, and remitted from Gexa to Energy Manager, for QSE Services performed by Energy Manager for the Term, as mutually agreed between TCAP and Energy Manager, the Customer having authorized TCAP to negotiate such fee on behalf of Customer in the PSA. The QSE Services Fee shall be included in the Energy Price for the Term.

21. "REP Services Agreement" means the REP Services Agreement currently in effect during the Term, as amended from time to time, between Gexa and TCAP.

22. "REP Services Fee" means the fee owed from Customer to Gexa, for REP services rendered during the Term, as mutually agreed between TCAP and Gexa, the Customer having authorized TCAP to negotiate such fee on behalf of Customer in the PSA. The REP Services Fee shall be included in the Energy Price for the Term.

23. "Taxes" means all taxes, assessments, levies, duties, charges, fees and withholdings of any kind levied by a duly-constituted taxing authority and all penalties, fines, and additions to tax, and interest thereon that are directly related to the services provided under this Agreement, but does not include the System Benefit Fund fee and fees and charges imposed by ERCOT. By way of example only, Taxes includes: Sales Tax, Miscellaneous Gross Receipts Tax, PUCT Assessment Fees and Franchise Fees.

24. "TCAP" means Texas Coalition for Affordable Power, an aggregation pool of governmental and other entities organized and administered by TCAP of which Customer is a member for the ESI IDs.

25. "TDSP" or "Transmission and Distribution Service Provider" means an entity regulated by the State of Texas, which transmits or distributes electric energy.

Attachments:

Attachment A

Attachment B (for new TCAP Customers only)

Terms and Conditions of Service

Offer Sheet (ESI ID list and Expected Start Date)

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

Terms and Conditions of Service Attachment A

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

A. REPRESENTATIONS AND WARRANTIES

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

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

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

B. DISCLAIMERS OF WARRANTIES; LIMITATION OF LIABILITIES

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

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

B.3 WAIVER OF CUSTOMER PROTECTION RULES AND CONSUMER RIGHTS. THE PARTIES FURTHER ACKNOWLEDGE THAT THE CUSTOMER PROTECTION RULES ADOPTED BY THE PUBLIC UTILITY COMMISSION (AS CONTAINED IN ITS SUBSTANTIVE RULES 25.471 ET SEQ.) ("CUSTOMER PROTECTION RULES") THAT PERTAIN TO RETAIL ELECTRIC SERVICE RELATED TO RESCISSION RIGHTS, CUSTOMER DISCLOSURES, DELIVERY OF CUSTOMER CONTRACTS TO CUSTOMERS, RECORDKEEPING, INTEREST PAID ON DEPOSITS AND CUSTOMER NOTICES DO NOT APPLY TO THIS AGREEMENT. EXCEPT AS SET FORTH IN THIS SECTION, CUSTOMER EXPRESSLY WAIVES THE CUSTOMER PROTECTION RULES THAT PERTAIN TO RETAIL ELECTRIC SERVICE RELATED TO RESCISSION RIGHTS, CUSTOMER DISCLOSURES, DELIVERY OF CUSTOMER CONTRACTS TO CUSTOMERS, RECORDKEEPING, INTEREST PAID ON DEPOSITS AND CUSTOMER NOTICES TO THE FULLEST EXTENT ALLOWED.

BY APPLICABLE LAW. CUSTOMER FURTHER WAIVES ITS RIGHTS UNDER THE DECEPTIVE TRADE PRACTICES-CONSUMER PROTECTION ACT, SECTION 17.41, ET. SEQ., BUSINESS & COMMERCE CODE, A LAW THAT GIVES CONSUMERS SPECIAL RIGHTS AND PROTECTIONS. CUSTOMER REPRESENTS AND WARRANTS TO GEXA THAT: (a) CUSTOMER IS NOT IN A SIGNIFICANTLY DISPARATE BARGAINING POSITION IN RELATION TO GEXA; (b) CUSTOMER IS REPRESENTED BY LEGAL COUNSEL THAT WAS NEITHER DIRECTLY NOR INDIRECTLY IDENTIFIED, SUGGESTED OR SELECTED BY GEXA; AND (c) CUSTOMER VOLUNTARILY CONSENTS TO THIS WAIVER AFTER CONSULTATION WITH ITS LEGAL COUNSEL.

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

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

C. CONFIDENTIALITY AGREEMENT

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

D. DEFAULT AND REMEDIES

D.1 Events of Default. An event of default ("Event of Default") means: (a) the failure of Customer to make, when due, any payment required under this Agreement for any undisputed amount if that payment is not made within fifteen (15) business days after receipt of written notice (facsimile or electronic mail are valid forms of notice for this paragraph) from Gexa; or (b) any representation or warranty made by a Party proves to be false or misleading in any material respect; (c) except as provided in clause (a) above or otherwise in this section D.1, the failure of any Party to perform its obligations under this Agreement and that failure is not excused by Force Majeure and remains uncured following 20 business days written notice of the failure; (d) the defaulting Party (i) makes an assignment or any general arrangement for the benefit of creditors; or (ii) files a petition or otherwise commences, authorizes or

acquiesces to a bankruptcy proceeding or similar proceeding for the protection of creditors, or has such a petition filed against it and that petition is not withdrawn or dismissed within 20 business days after filing; or (iii) otherwise becomes insolvent; or (iv) is unable to pay its debts when due; or (v) fails to establish, maintain or extend Credit in form and in an amount acceptable to Gexa when required; or (e) the Wholesale Transaction is terminated due to a default by Gexa under CESAs with other TCAP members or due to a default by the Energy Manager under the Wholesale Transaction. If an Event of Default listed in subsection (d) of this Section occurs, it is deemed to have automatically occurred prior to such event.

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

E. MISCELLANEOUS PROVISIONS

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

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

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

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

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

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

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

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

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

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

E.11 Governing Law.

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

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

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

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

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

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



CITY OF VERNON
1725 WILBARGER ST
VERNON TX 76384

Account Number: 91855-2
Invoice Number: 31187992-4
Billing Date: Jul 15, 2020

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Current Monthly Charges

Energy Charges

Metered/Unmetered Charges	324,567.00 KWH	\$12,015.49
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Transmission and Distribution Charges

Transmission and Distribution Charges		\$12,412.52
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Aggregator Charge

Aggregator Fee	324,567.00 KWH	\$389.49
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Congestion Surcharge

Congestion Surcharge		\$973.72
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Regulatory Charges

Public Utility Assessment		\$423.61
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Texas Gross Receipts		\$380.71
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Other Charges and Adjustments

Other ESIID Charges/Credits		\$ 0.00
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Other ESIID Taxes		\$ 0.00
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Total Current Monthly Charges

\$26,214.83

Prior Balance and Payments

\$ 0.00

Total Amount Due

\$26,214.83

Texas Gross Receipts: state fees administered by the Texas Comptroller of Public Accounts

PUC: fee administered by the Public Utility Commission used to finance the Commission

* These fees have always been applied by Energy Providers but were not typically displayed separately on bills prior to electric market deregulation



CITY OF VERNON
1725 WILBARGER ST
VERNON TX 76384

Account Number: 91855-2
Invoice Number: 30945088-4
Billing Date: Jun 15, 2020

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Current Monthly Charges

Energy Charges

Metered/Unmetered Charges	315,300.00 KWH	\$11,672.42
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Transmission and Distribution Charges		\$13,460.37
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Transmission and Distribution Charges		\$13,460.37
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Aggregator Charge		\$378.35
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Aggregator Fee	315,300.00 KWH	\$378.35
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Congestion Surcharge		\$945.90
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Congestion Surcharge	315,300.00 KWH	\$945.90
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Regulatory Charges

Public Utility Assessment		\$422.43
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Texas Gross Receipts		\$422.43
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Other Charges and Adjustments

Other ESID Charges/Credits		\$ 0.00
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Other ESID Taxes		\$ 0.00
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Total Current Monthly Charges		\$26,879.47
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Prior Balance and Payments		\$ 0.00
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Total Amount Due		\$26,879.47
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Texas Gross Receipts: state fees administered by the Texas Comptroller of Public Accounts

PUC: fee administered by the Public Utility Commission used to finance the Commission

* These fees have always been applied by Energy Providers but were not typically displayed separately on bills prior to electric market deregulation



CITY OF VERNON
1725 WILBARGER ST
VERNON TX 76384

Account Number: 91855-2
Invoice Number: 30699364-4
Billing Date: May 15, 2020

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Current Monthly Charges

Energy Charges

Metered/Unmetered Charges	324,674.00 KWH	\$12,019.41
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Transmission and Distribution Charges

Transmission and Distribution Charges		\$18,072.65
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Aggregator Charge

Aggregator Fee	324,674.00 KWH	\$389.57
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Congestion Surcharge

Congestion Surcharge	324,674.00 KWH	\$974.03
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Regulatory Charges

Public Utility Assessment		\$52.32
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Texas Gross Receipts		\$472.34
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Other Charges and Adjustments

Other ESIID Charges/Credits		\$ 0.00
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Other ESIID Taxes		\$ 0.00
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Total Current Monthly Charges

\$31,980.32

Prior Balance and Payments

\$ 0.00

Total Amount Due

\$31,980.32

Texas Gross Receipts: state fees administered by the Texas Comptroller of Public Accounts

PUC: fee administered by the Public Utility Commission used to finance the Commission

* These fees have always been applied by Energy Providers but were not typically displayed separately on bills prior to electric market deregulation



CITY OF VERNON
1725 WILBARGER ST
VERNON TX 76384

Account Number: 91855-2
Invoice Number: 30437147-4
Billing Date: Apr 15, 2020

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Current Monthly Charges

Energy Charges

Metered/Unmetered Charges	300,062.00 KWH	\$11,108.28
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Transmission and Distribution Charges

Transmission and Distribution Charges		\$17,201.36
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Aggregator Charge

Aggregator Fee	300,062.00 KWH	\$360.06
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Congestion Surcharge

Congestion Surcharge	300,062.00 KWH	\$900.19
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Regulatory Charges

Public Utility Assessment		\$49.36
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Texas Gross Receipts		\$444.76
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Other Charges and Adjustments

Other ESIID Charges/Credits		\$ 0.00
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Other ESIID Taxes		\$ 0.00
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Total Current Monthly Charges

\$30,064.01

Prior Balance and Payments

\$ 0.00

Total Amount Due

\$30,064.01

Texas Gross Receipts: state fees administered by the Texas Comptroller of Public Accounts

PUC: fee administered by the Public Utility Commission used to finance the Commission

* These fees have always been applied by Energy Providers but were not typically displayed separately on bills prior to electric market deregulation



CITY OF VERNON
1725 WILBARGER ST
VERNON TX 76384

Account Number: 91855-2
Invoice Number: 30182052-4
Billing Date: Mar 15, 2020

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Current Monthly Charges

Energy Charges

Metered/Unmetered Charges	309,023.00 KWH	\$11,440.02
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Transmission and Distribution Charges		\$16,369.34
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Transmission and Distribution Charges		\$16,369.34
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Aggregator Charge		\$370.83
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Aggregator Fee	309,023.00 KWH	\$370.83
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Congestion Surcharge		\$927.07
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Congestion Surcharge	309,023.00 KWH	\$927.07
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Regulatory Charges		\$483.45
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Public Utility Assessment		\$48.65
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Texas Gross Receipts		\$434.80
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Other Charges and Adjustments		\$ 0.00
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Other ESIID Charges/Credits		\$ 0.00
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Other ESIID Taxes		\$ 0.00
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Total Current Monthly Charges		\$29,590.71
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Prior Balance and Payments		\$ 0.00
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Total Amount Due		\$29,590.71
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Texas Gross Receipts: state fees administered by the Texas Comptroller of Public Accounts

PUC: fee administered by the Public Utility Commission used to finance the Commission

* These fees have always been applied by Energy Providers but were not typically displayed separately on bills prior to electric market deregulation



CITY OF VERNON
1725 WILBARGER ST
VERNON TX 76384

Account Number: 91855-2
Invoice Number: 29941826-4
Billing Date: Feb 15, 2020

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Current Monthly Charges

Energy Charges

Metered/Unmetered Charges	331,573.00 KWH	\$12,274.81
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Transmission and Distribution Charges

Transmission and Distribution Charges		\$16,403.58
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Aggregator Charge

Aggregator Fee	331,573.00 KWH	\$397.88
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Congestion Surcharge

Congestion Surcharge	331,573.00 KWH	\$663.09
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Regulatory Charges

Public Utility Assessment		\$488.17
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Texas Gross Receipts		\$438.52
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Other Charges and Adjustments

Other ESIID Charges/Credits		\$ 0.00
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Other ESIID Taxes		\$ 0.00
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Total Current Monthly Charges		\$30,227.53
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Prior Balance and Payments		\$ 0.00
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Total Amount Due		\$30,227.53
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Texas Gross Receipts: state fees administered by the Texas Comptroller of Public Accounts

PUC: fee administered by the Public Utility Commission used to finance the Commission

* These fees have always been applied by Energy Providers but were not typically displayed separately on bills prior to electric market deregulation



CITY OF VERNON
1725 WILBARGER ST
VERNON TX 76384

Account Number: 91855-2
Invoice Number: 29683173-4
Billing Date: Jan 15, 2020

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Current Monthly Charges

Energy Charges

Metered/Unmetered Charges	347,915.00 KWH	\$12,879.81
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Transmission and Distribution Charges		\$16,643.96
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Transmission and Distribution Charges		\$16,643.96
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Aggregator Charge

Aggregator Fee	347,915.00 KWH	\$417.51
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Congestion Surcharge		\$695.78
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Congestion Surcharge	347,915.00 KWH	\$695.78
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Regulatory Charges

Public Utility Assessment		\$495.18
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Texas Gross Receipts		\$444.04
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Other Charges and Adjustments

Other ESIID Charges/Credits		\$ 0.00
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Other ESIID Taxes		\$ 0.00
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Total Current Monthly Charges		\$31,132.24
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Prior Balance and Payments		\$ 0.00
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Total Amount Due		\$31,132.24
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Texas Gross Receipts: state fees administered by the Texas Comptroller of Public Accounts

PUC fee administered by the Public Utility Commission used to finance the Commission

* These fees have always been applied by Energy Providers but were not typically displayed separately on bills prior to electric market deregulation



CITY OF VERNON
1725 WILBARGER ST
VERNON TX 76384

Account Number: 91855-2
Invoice Number: 29459593-4
Billing Date: Dec 15, 2019

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Current Monthly Charges

Energy Charges		
Metered/Unmetered Charges	299,383.00 KWH	\$11,083.14
Transmission and Distribution Charges		
Transmission and Distribution Charges		\$16,480.48
Aggregator Charge		
Aggregator Fee	299,383.00 KWH	\$239.48
Congestion Surcharge		
Congestion Surcharge	299,383.00 KWH	\$598.73
Regulatory Charges		
Public Utility Assessment		\$475.71
Texas Gross Receipts		\$428.31
Other Charges and Adjustments		
Other ESIID Charges/Credits		\$ 0.00
Other ESIID Taxes		\$ 0.00
Total Current Monthly Charges		
Prior Balance and Payments		\$ 0.00
Total Amount Due		

Texas Gross Receipts: state fees administered by the Texas Comptroller of Public Accounts

PUC: fee administered by the Public Utility Commission used to finance the Commission

* These fees have always been applied by Energy Providers but were not typically displayed separately on bills prior to electric market deregulation



CITY OF VERNON
1725 WILBARGER ST
VERNON TX 76384

Account Number: 91855-2
Invoice Number: 29169805-4
Billing Date: Nov 15, 2019

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Current Monthly Charges

Energy Charges

Metered/Unmetered Charges	290,897.00 KWH	\$10,768.97
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Transmission and Distribution Charges

Transmission and Distribution Charges		\$16,190.32
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Aggregator Charge

Aggregator Fee	290,897.00 KWH	\$232.69
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Congestion Surcharge

Congestion Surcharge	290,897.00 KWH	\$581.75
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Regulatory Charges

Public Utility Assessment		\$46.33
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Texas Gross Receipts		\$419.43
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Other Charges and Adjustments

Other ESIID Charges/Credits		\$ 0.00
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Other ESIID Taxes		\$ 0.00
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Total Current Monthly Charges

\$28,239.49

Prior Balance and Payments

\$ 0.00

Total Amount Due

\$28,239.49

Texas Gross Receipts: state fees administered by the Texas Comptroller of Public Accounts

PUC fee administered by the Public Utility Commission used to finance the Commission

* These fees have always been applied by Energy Providers but were not typically displayed separately on bills prior to electric market deregulation



CITY OF VERNON
1725 WILBARGER ST
VERNON TX 76384

Account Number: 91855-2
Invoice Number: 28922659-4
Billing Date: Oct 15, 2019

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Current Monthly Charges

Energy Charges

Metered/Unmetered Charges	331,769.00 KWH	\$12,282.05	\$12,282.05
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Transmission and Distribution Charges

Transmission and Distribution Charges		\$16,920.06	\$16,920.06
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Aggregator Charge

Aggregator Fee	331,769.00 KWH	\$265.40	\$265.40
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Congestion Surcharge

Congestion Surcharge	331,769.00 KWH	\$663.54	\$663.54
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Regulatory Charges

Public Utility Assessment		\$50.25	\$510.63
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Texas Gross Receipts		\$460.38	
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Other Charges and Adjustments

Other ESIID Charges/Credits		\$0.00	\$0.00
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Other ESIID Taxes		\$0.00	
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Total Current Monthly Charges

Prior Balance and Payments		\$0.00	\$30,641.68
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Total Amount Due

Texas Gross Receipts: state fees administered by the Texas Comptroller of Public Accounts			
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PUC: fee administered by the Public Utility Commission used to finance the Commission

* These fees have always been applied by Energy Providers but were not typically displayed separately on bills prior to electric market deregulation



CITY OF VERNON
1725 WILBARGER ST
VERNON TX 76384

Account Number: 91855-2
Invoice Number: 28703757-4
Billing Date: Sep 15, 2019

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Current Monthly Charges

Energy Charges

Metered/Unmetered Charges	352,255.00 KWH	\$13,040.46
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Transmission and Distribution Charges		\$16,316.82
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Transmission and Distribution Charges		\$16,316.82
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Aggregator Charge

Aggregator Fee	352,255.00 KWH	\$281.76
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Congestion Surcharge		\$704.50
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Congestion Surcharge	352,255.00 KWH	\$704.50
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Regulatory Charges

Public Utility Assessment		\$511.26
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Texas Gross Receipts		\$460.60
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Other Charges and Adjustments

Other ESIID Charges/Credits		\$ 0.00
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Other ESIID Taxes		\$ 0.00
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Total Current Monthly Charges		\$30,854.80
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Prior Balance and Payments		\$ 0.00
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Total Amount Due		\$30,854.80
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Texas Gross Receipts: state fees administered by the Texas Comptroller of Public Accounts

PUC: fee administered by the Public Utility Commission used to finance the Commission

* These fees have always been applied by Energy Providers but were not typically displayed separately on bills prior to electric market deregulation



CITY OF VERNON
1725 WILBARGER ST
VERNON TX 76384

Account Number: 91855-2
Invoice Number: 28469616-4
Billing Date: Aug 15, 2019

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Current Monthly Charges

Energy Charges

Metered/Unmetered Charges	346,908.00 KWH	\$12,842.51
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Transmission and Distribution Charges

Transmission and Distribution Charges		\$16,742.80
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Aggregator Charge

Aggregator Fee	346,908.00 KWH	\$277.54
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Congestion Surcharge

Congestion Surcharge	346,908.00 KWH	\$693.82
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Regulatory Charges

Public Utility Assessment		\$51.01
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Texas Gross Receipts		\$465.79
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Other Charges and Adjustments

Other ESIID Charges/Credits		\$ 0.00
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Other ESIID Taxes		\$ 0.00
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Total Current Monthly Charges

		\$31,073.47
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Prior Balance and Payments

		\$ 0.00
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Total Amount Due

		\$31,073.47
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Texas Gross Receipts: state fees administered by the Texas Comptroller of Public Accounts

PUC: fee administered by the Public Utility Commission used to finance the Commission

* These fees have always been applied by Energy Providers but were not typically displayed separately on bills prior to electric market deregulation

CITY OF VERNON
COMMISSIONER MEETING

MEETING DATE: Possibly 8/11/20

DEPARTMENT: Public Works-Wastewater Treatment Plant

AUTHOR: Darell Kennon

AGENDA ITEM: Consider and approve the purchase of four Rotary Aerators for the Wastewater Treatment Plant.

BACKGROUND: Staff is requesting the purchase of four Rotary Aerators for the Wastewater Treatment plant due to the main shaft breaking on one of the existing rotors. The other rotors are the same age as the one that broke, so metal fatigue is a concern on the other three. It is somewhat of an emergency situation because if one of the remaining three rotors break-down we will not be able to maintain our Dissolved Oxygen (DO) levels which could lead to a permit violation. Plus, the lead time for the new units is 16 weeks or more.

It is possible to repair the rotor but it seems cost prohibitive at \$39,000.00, especially considering the 25hp electric motor, the gear reduction and hood would not be included in that amount.

It is possible to replace one rotor at a time but due to the economy of scale, the long lead time and the fact that they were the next step in our overall plan, staff recommends procuring all four now.

Two other items of information. 1. The new Rotors will be upgraded to include a DO sensor and VFD's. This will allow the Rotors to be slowed down during the times when the DO is sufficient, which will generate energy savings. 2. Because this is an energy savings project it qualifies for AEP's CLEAResult rebate program which is projected to be \$8,000 or more.

ATTACHMENT(S): Financial projections

Rotor pamphlet (Evoqua).

Bid results (**PENDING 8/7/20 opening of bids**)

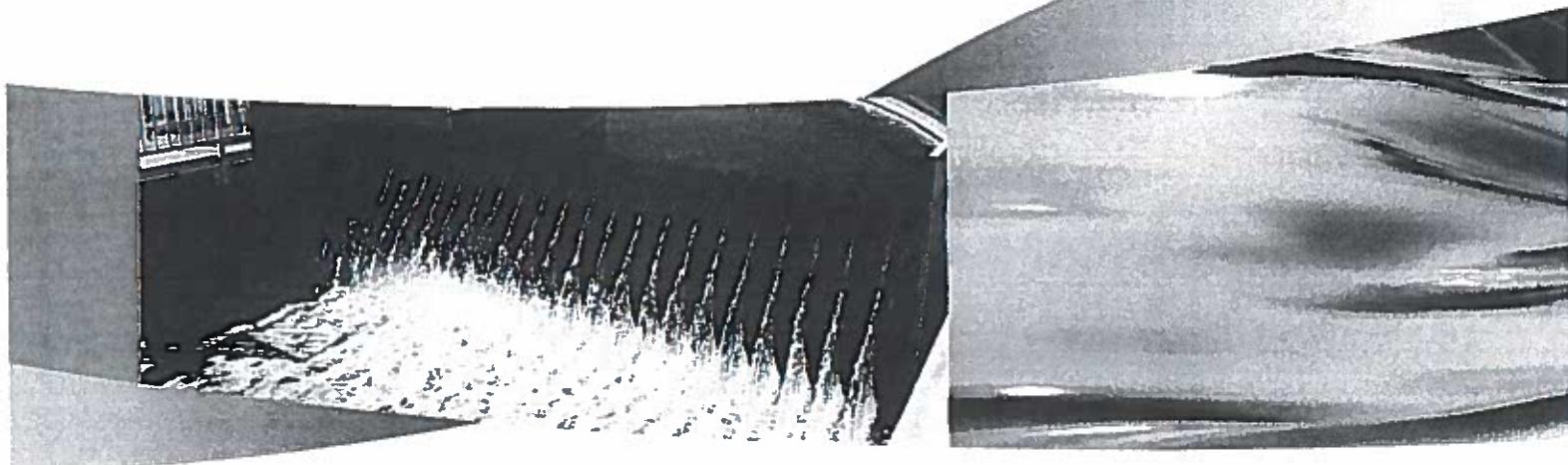
FINANCIAL IMPACT: Estimated at \$594,000.00

RECOMMENDATION: Staff recommends the procurement of four Rotary Aerators.

ACTION REQUESTED: Approve the purchase of four Rotary Aerators based on the bid which represents the best value for the City of Vernon.

This is designed to show that the four year total, including the holdover from last year does not exceed the previously budgeted and purposed budget amounts

Actual Spend in Budget year 2017-18	\$ 161,389.52	\$ 800,000.00			1 million transferred to fund 25, but zero expenses
Actual Spend in Budget year 2018-19	\$ 443,951.10	\$ 800,000.00			The \$161,389.52 is expenses on acct. 5252-5535 in 2018-19
Purposed Spend in Budget year 2019-20	\$ 727,867.13	\$ 800,000.00			
Purposed Spend in Budget year 2020-21	\$ 1,139,992.87	\$ 800,000.00			
4 year projected Spend	\$ 2,473,200.62	\$ 3,200,000.00			4 year Budgeted Spend
Average Projected Spend over 4 years	\$ 618,300.16	\$ 800,000.00			



IMPROVED MECHANICAL COMPONENTS FOR EVOQUA'S ORBAL SYSTEM

Direct-Drive Gearbox

- Efficiency** - Increases energy efficiency by seven percent, compared to previous belt-driven gearbox.
- Maintenance** - Reduces maintenance by eliminating belts (no belt tensioning, replacements or over tightening, which can result in premature wear of gearbox input shaft, gearbox bearings and motor bearings).
- Accessibility** - Makes oil changes and seal inspections faster and easier by eliminating belts.
- Compact Size** - Requires less space than previous belt-driven gearbox, which makes it ideal for retrofit applications.

Belted vs. Direct-Drive Gearbox Cost Savings

Orbal System Drive Arrangement	Two 10 HP Two 20 HP	Two 20 HP Two 40 HP	Two 30 HP Two 60 HP
Belt Reducer Efficiency	0.86	0.86	0.86
Gear Reducer Efficiency	0.94	0.94	0.94
Estimated Gear Upgrade Cost	\$3,000	\$10,000	\$12,000
Gear Reducer Power Savings (\$/yr)*	\$3,000	\$5,000	\$8,000
Payback Period (yrs)	1.0	2.0	15

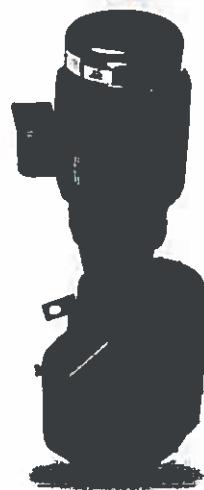
*Based on 8,400 annual operating hours and an energy cost of \$0.07/kW·hr.

As shown above, the payback period on an investment in new direct-drive gearboxes for a current Orbal® system that has the original belt-driven gearboxes ranges from only one to two years.

Upgrades Made Easy

Regardless of the age of your Orbal® system, Evoqua offers a wide range of equipment to enhance its performance. You can select any or all of the following products for upgrades:

- OX™ Disc Aerators
- Weatherhoods
- Direct-Drive Gearboxes
- Bearings
- Automatic Greasing System
- Couplings



Evoqua field service support teams are available to handle many upgrade installations.

To learn more about upgrade options, visit www.evoqua.com/orbal.

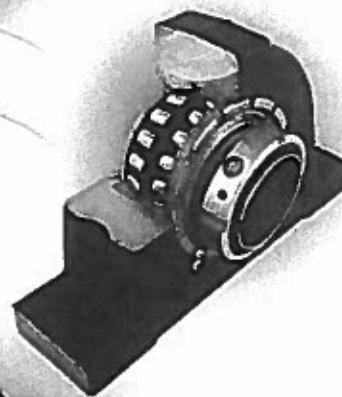
The new direct-drive gearbox increases efficiency by seven percent, compared to the Orbal system's previous belt-driven gearbox.

Bearings

- **Automatic Greasing System** - Each replaceable grease cartridge lasts up to three months and is applied directly into the bearing with remote grease lines for ease of maintenance.
- **Easy Fit** - Ensures proper shaft and housing fit with wide shaft tolerance range (+0.000 / -0.004).
- **Easy Removal** - Eliminates the gap between the shaft and the bearing set collar, which prevents moisture corrosion that bonds the shaft and bearing together.
- **Minimal Downtime** - Allows replacement in less than one hour.
- **Direct Replacement** - Replaces most Orbital system bearings (Dodge, Morse, Sealmaster and Link-Belt).

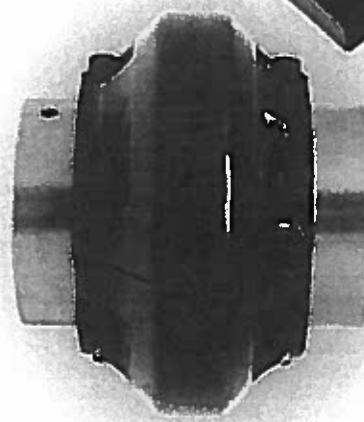


Evoqua's Auto Greasing System is a standard feature providing easy maintenance of the bearings.



Couplings

- **Longer Life** - Extends bearing life and prevents premature wear of the coupling when using a variable frequency drive (VFD) due to its ability to handle greater degrees of misalignment while dampening the loads on the overall system.
- **Minimal Downtime** - Allows element replacement in less than 15 minutes, since hubs, bearings, drives and shafts do not need to be removed.



The elements of the Orbital system's new couplings can be replaced in less than 15 minutes.



2607 N Grandview Blvd #130, Waukesha, WI 53189

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www.evoqua.com/orbal

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CITY OF VERNON
COMMISSIONER MEETING

MEETING DATE: August 11, 2020

DEPARTMENT: City Manager

AUTHOR: Marty Mangum

AGENDA ITEM: **Discuss, consider and take possible action on a request from Relay For Life to close Fannin Street between Paradise and Wichita Streets on August 22, 2020**

BACKGROUND: Marilyn Ramirez will be at our meeting to request closing Fannin Street from Wichita to Paradise on August 22, 2020 starting at 2 pm to 6 pm.

