

ORDINANCE NO. 2018 - _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DENTON, A TEXAS HOME-RULE MUNICIPAL CORPORATION, PROVIDING FOR, AUTHORIZING, AND APPROVING THE EXECUTION BY THE CITY MANAGER, OR HIS DESIGNEE, OF A BASE CONTRACT FOR SALE AND PURCHASE OF NATURAL GAS BETWEEN THE CITY OF DENTON AND ENTERPRISE PRODUCTS OPERATING, LLC, A TEXAS LIMITED LIABILITY COMPANY; APPROVING THE EXECUTION OF SUCH OTHER AND FURTHER RELATED DOCUMENTS DEEMED NECESSARY TO EFFECTUATE THE TRANSACTIONS ALLOWED UNDER THIS AGREEMENT BY THE CITY MANAGER OR HIS DESIGNEE; CONFIRMING THE CITY IS AUTHORIZED TO PURCHASE NATURAL GAS FOR THE DENTON ENERGY CENTER UNDER ORDINANCE NO. 2014-060; DETERMINING THAT SPECIFIC INFORMATION CONTAINED IN SAID DOCUMENTS INVOLVED IN THIS TRANSACTION PERTAIN TO A “COMPETITIVE ELECTRIC MATTER” AS SET FORTH UNDER THE PROVISIONS OF §§551.086 AND 552.133 OF THE TEXAS GOVERNMENT CODE, AS AMENDED; ALLOWING THE PUBLIC TO INSPECT, BUT NOT REPRODUCE, THE CONTRACT AS REDACTED; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Denton, Texas (“Denton”) is a Texas home-rule City governed by the constitution and laws of the State of Texas; and

WHEREAS, the Base Contract for Sale and Purchase of Natural Gas (“Contract”) will provide terms and conditions by which Denton can purchase natural gas from Enterprise Products Operating, LLC, a Texas limited liability company (“Enterprise”); and

WHEREAS, Denton’s purchase of natural gas from Enterprise will be for use in the testing and operation of the Denton Energy Center and will be purchased by Denton under authority previously provided in Ordinance No. 2014-060 passed by the City Council on March 4, 2014; and

WHEREAS, in accordance with the provisions of §551.086 of the Texas Government Code, after due notice of the public meeting was provided as required by law, the Contract between Denton and Enterprise was submitted for final consideration to the Denton Public Utilities Board on January 8, 2018; a majority of the Public Utilities Board (“PUB”), a “Public Power Governing Body” as defined by State law, convened a Closed Meeting as permitted by law, and discussed, considered, and deliberated the Contract; and thereafter in its Closed Meeting proceeded to take final action and recommend to the City Council that the Contract be recommended for approval by the City Council by a vote of seven (7) in favor to none (0) opposed; and

WHEREAS, in accordance with the provisions of §551.086 of the Texas Government Code, after due public notice being given, the City Council, a “Public Power Utility Governing Body” under state law, the Council has discussed, deliberated, and considered the Contract in a Closed Meeting of the City Council on January 9, 2018, after receiving a legal opinion of counsel that the Contract is a proper item for consideration in its Closed Meeting, which item involves competitive electric matters, including business and commercial information, which if disclosed,

would give advantage to its competitors or prospective competitors; and

WHEREAS, the City Council has further determined and finds that specific information contained in the Contract to be entered into between Denton and Enterprise Operating should be excepted from public disclosure, as permitted by the provisions of §552.133 of the Texas Government Code, as information that is reasonably related to a competitive electric matter (“Competitive Information”), the disclosure of which would provide an advantage to the competitors or prospective competitors of Denton Municipal Electric (“DME”); and

WHEREAS, the City Council has further determined that it is in the public interest that it should exercise its right under the Texas Government Code to lawfully safeguard and keep the Competitive Information contained in the documents in the preceding paragraph sealed, as it is competitive electric and financial information; and

WHEREAS, Denton desires to enter into such other arrangements in support of the Contract with Enterprise Operating which are incident and related to the Contract, and to take such additional actions as the City Manager, or his designee, shall determine to be necessary and advisable to consummate and effectuate the matters set forth herein; NOW, THEREFORE, THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. The recitations contained in the above Preamble are incorporated herewith and are considered to be a part of this Ordinance.

SECTION 2. The City Council, approves and authorizes the City Manager and City Secretary, or their designees, to execute and attest respectively, the Contract between the City of Denton and Enterprise as set forth in Exhibit “A” attached hereto and made a part hereof.

SECTION 3. The City Council, approves and authorizes the City Manager and City Secretary, and their respective designees, to execute and attest respectively, all other documents which are incident and related to the Contract, after the same have been approved by the City Attorney, or his designee, and to take such additional actions as the City Manager, or his designee, shall determine to be necessary and advisable to effectuate the matters set forth above.

SECTION 4. The City Council confirms that Denton is authorized to purchase natural gas for use in the testing and operation of the Denton Energy Center from Enterprise under the authority previously provided in Ordinance No. 2014-060.

SECTION 5. The City Manager, the City Attorney, or their designees, be, and each of them individually hereby is, authorized and empowered to perform all such acts and obligations as required with respect to the Contract described herein.

SECTION 6. Immediately following the execution and delivery of the Contract, the City Secretary is directed to seal and maintain the same in her custody and control, as documents excepted from public disclosure under the provisions of §552.133 of the Texas Government Code (the “Public Power Exception”) unless otherwise lawfully ordered to disclose said documents.

SECTION 7. This ordinance and a copy of Contract, as redacted of Competitive Information shall be open for public inspection only; due to copyright restrictions it will not made available for reproduction. The non-redacted Contract shall not be produced for public inspection, but shall be sealed, as provided for in Section 6 above.

SECTION 8. This ordinance shall become effective immediately upon its passage and approval.

PASSED AND APPROVED this the 16th day of January, 2018.

CHRIS WATTS, MAYOR

ATTEST:
JENNIFER WALTERS, CITY SECRETARY

By: _____

APPROVED AS TO LEGAL FORM:
AARON LEAL, CITY ATTORNEY

By:  _____

EXHIBIT "A"

Base Contract for Sale and Purchase of Natural Gas

The Base Contract for Sale and Purchase of Natural Gas between Denton and Enterprise ("Contract") will not be attached to this ordinance as part of the agenda backup. The contract form was developed, and is owned, by the National American Energy Standards Board ("NAESB"). NAESB has protected this contract form under federal copyright law. Both the City and Enterprise have a license to use this contract form and may disseminate and reproduce it for internal and governance use only (it has been provided to both the members of the Public Utility Board and City Council). NAESB does not allow its contract form to be disseminated to, or reproduced by, the public. The Contract, as redacted, will be made available for public inspection only in the office of the City Secretary. The redacted Contract will be available for public inspection as soon as the agenda which contains this item has been posted.