

ORDINANCE NO. 2017 - \_\_\_\_\_

AN ORDINANCE APPROVING THE WAIVER OF SECTION 5.3.1 (“ADOPTION OF DECOMMISSIONING PLAN”) OF THE TEXAS MUNICIPAL POWER AGENCY’S JOINT OPERATING AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Denton is a member of the Texas Municipal Power Agency (“TMPA”);

WHEREAS, the TMPA owns and operates the Gibbons Creek Steam Electric Station (“Gibbons Creek Plant”) in Grimes County, Texas;

WHEREAS, under the section 5.3.1 of the Joint Operating Agreement, TMPA was to adopt a decommissioning plan for the Gibbons Creek Plant no later than September 1, 2017;

WHEREAS, TMPA, in light of the current efforts to sell the Gibbons Creek Plant, is reluctant to expend funds on the development of the decommissioning plan at this time;

WHEREAS, the TMPA board has requested its member cities to waive the requirements of section 5.3.1 of the Joint Operating Agreement until the efforts to sell the Gibbons Creek Plant have ceased;

WHEREAS, the other member cities, the City of Garland, the City of Bryan, and the City of Greenville, have each agreed to waive the requirements of section 5.3.1 of the Joint Operating Agreement as requested by TMPA; and

WHEREAS, the City Council of the City of Denton deems it is in the public interest and serves a municipal and public purpose to authorize the waiver of Section 5.3.1 of the Texas Municipal Power Agency’s Joint Operating Agreement; NOW, THEREFORE;

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. The recitals and findings contained in the preamble of this ordinance are incorporated into the body of this ordinance.

SECTION 2. The City Council finds that the waiver the requirements of section 5.3.1 of the Joint Operating Agreement serves a valid municipal and public purpose and is in the public interest.

SECTION 3. The City Manager, or his designee, is authorized to execute the letter attached as Exhibit “A” and deliver the same to the Texas Municipal Power Agency.

SECTION 4. This ordinance shall become effective immediately upon its passage and approval.

PASSED AND APPROVED this the \_\_\_\_\_ day or \_\_\_\_\_, 2017.

\_\_\_\_\_  
CHRIS WATTS, MAYOR

ATTEST:  
JENNIFER WALTERS, CITY SECRETARY

BY: \_\_\_\_\_

APPROVED AS TO LEGAL FORM:  
AARON LEAL, INTERIM CITY ATTORNEY

BY:  \_\_\_\_\_

**EXHIBIT A  
TO  
ORDINANCE**



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215 E. McKinney Street, Denton, Texas 76201

April 18, 2017

Mr. Bob Kahn  
General Manager  
Texas Municipal Power Agency  
12824 F.M. 244  
Anderson, Texas 77830

Re: Joint Operating Agreement (“JOA”) Decommissioning Plan

Dear Mr. Kahn,

Section 5.3.1 of the JOA requires that the TMPA Board adopt a decommissioning plan by September 1, 2017 (the “Decommissioning Plan Deadline”). It is our understanding that, in light of current efforts to sell the power plant, TMPA is reluctant to expend funds on development of a decommissioning plan at this time. Consequently, it is possible that the Decommissioning Plan Deadline will be missed.

The City of Denton is agreeable to waiving and does waive the Decommissioning Plan Deadline provided that, in the event the effort to sell TMPA’s power plant is abandoned, TMPA will, within a reasonable period of time after such effort is abandoned, cause to be developed a decommissioning plan and obtain approval of the plan by the TMPA Board as contemplated by the JOA.

Sincerely,

Mayor Chris Watts

