

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DENTON, TEXAS REPEALING ORDINANCE NO. 2014-060; APPROVING AND ADOPTING THE "2018 DENTON MUNICIPAL ELECTRIC - ENERGY RISK MANAGEMENT POLICY" ("2018 ERMP"); AUTHORIZING AND APPROVING THE EXECUTION BY THE MAYOR, OR HIS DESIGNEE, OF THE 2018 ERMP; EXPRESSLY DELEGATING AUTHORITY AS PROVIDED IN THE 2018 ERMP; AUTHORIZING AND APPROVING THE SUBSEQUENT EXECUTION OF SUCH OTHER ANCILLARY AND RELATED DOCUMENTS, INCLUDING, WITHOUT LIMITATION, CONTRACTS, NOMINATIONS, CERTIFICATES, ASSIGNMENTS, LICENSES, DIRECTIONS, INSTRUMENTS, CONFIRMATIONS, ORDERS AND STATEMENTS AS ARE AUTHORIZED BY THE 2018 ERMP, WHICH ARE INCIDENT TO OR RELATED THERETO; CONFIRMING AND RATIFYING THAT THE CITY OF DENTON, TEXAS, ITS MAYOR, ITS CITY COUNCIL MEMBERS, ITS CITY MANAGER, OR HIS DESIGNEES, ITS CITY ATTORNEY, OR HIS DESIGNEES, AND ITS CITY SECRETARY, OR HER DESIGNEES, SHALL BE AUTHORIZED AND EMPOWERED TO PERFORM SUCH ACTS AND OBLIGATIONS AS ARE REASONABLY REQUIRED TO CONSUMMATE THOSE FUTURE TRANSACTIONS WHICH ARE PROVIDED FOR AND AUTHORIZED BY THE 2018 ERMP; FINDING THAT THE PURCHASE OF ELECTRICITY, NATURAL GAS AND RELATED COMMODITIES ARE EXEMPT FROM THE REQUIREMENTS OF COMPETITIVE BIDDING; ADOPTING SIGNIFICANT RECITATIONS, FINDINGS AND CONCLUSIONS, AS ARE SET FORTH IN THE PREAMBLE OF THIS ORDINANCE; THAT THE PURCHASE OF ELECTRIC ENERGY, NATURAL GAS AND RELATED COMMODITE ARE MADE BY THE CITY UNDER THE TERMS OF THE "DENTON MUNICIPAL ELECTRIC - ENERGY RISK MANAGEMENT POLICY" IS IN THE PUBLIC WELFARE OF THE CITIZENS OF DENTON, TEXAS AND THE DENTON MUNICIPAL ELECTRIC RATEPAYERS; AUTHORIZING THE EXPENDITURE OF FUNDS THEREFOR; PROVIDING AN EFFECTIVE DATE.

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

WHEREAS, on March 4, 2014, the City Council ("Council"), through action in closed session, passed Ordinance No. 2014-060 which approved the Denton Municipal Electric - Energy Risk Management Policy ("2014 ERMP"); and

WHEREAS, Ordinance No. 2014-060 and the 2014 ERMP were considered to be pertaining to a "competitive electric matter" and as such were withheld from public disclosure under the provisions of Texas Government Code, Sections 551.086 and 552.133; and

WHEREAS, in 2017, the City hired the consulting firm of Deloitte & Touche to conduct a review of the City's 2014 ERMP;

WHEREAS, Deloitte & Touche has evaluated and recommended certain changes be made to the 2014 ERMP; and

WHEREAS, the City has incorporated many of these recommendations into its 2018 Energy

Risk Management Policy ("2018 ERMP"); and

WHEREAS, on April 23, 2018, the City's Public Utilities Board ("PUB"), in open session, recommended to the Council, by a vote of \_\_\_\_\_ ( \_\_\_\_ ) in favor and \_\_\_\_\_ ( \_\_\_\_ ) opposed, that Ordinance No. 2014-060 and the 2014 ERMP be repealed and the 2018 ERMP, through ordinance, be approved; and

WHEREAS, the Council has determined and finds that Ordinance No. 2014-060 and the 2014 ERMP be repealed and that the same be made available for disclosure to the public; and

WHEREAS, the Council has further determined and finds that the this Ordinance and the 2018 ERMP be made available to the public; and

WHEREAS, the Council has further determined and finds that the 2018 ERMP provides for the purchase of electricity, natural gas and related commodities in the future in strict accordance with the provisions of the 2018 ERMP; the Council also finds and concludes that any and all contracts and other documents that are required to be entered into by and between the sellers of electric energy, natural gas and related commodities fuel and the City, that these transactions are authorized, confirmed and are ratified, provided that these transactions are within the described and delineated limits and guidelines which are set forth in the 2018 ERMP; and should there be other supporting documents necessary to be executed by and between the City and the seller(s), that all such documents which are incident to or related thereto, as from time to time may be executed by the City and/or the seller, in connection therewith, should be excepted from public disclosure, as permitted by the provisions of §552.133 of the Texas Government Code, as documents that are reasonably related to a competitive public power matter, the disclosure of which documents would provide an advantage to the competitors or prospective competitors of Denton Municipal Electric ("DME"); and

WHEREAS, the Council finds and affirms that the 2018 ERMP as approved by this ordinance, will not impair the ability of the City to comply with the provisions of any of its utility revenue bonds, as amended, which are now issued and outstanding; and

WHEREAS, the Council has further determined and finds that Texas Local Government Code, Sections 252.022(a)(15) and 252.022(c), are applicable to the 2018 ERMP and those subsequent transactions authorized by said 2018 ERMP involving the purchase of electricity and natural gas, and that the Texas competitive bidding law is not applicable to such purchases by the City; and

WHEREAS, the Council has further determined and finds that these actions and the 2018 ERMP are in the best interest of its citizens and ratepayers;

NOW THEREFORE, THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. Ordinance No. 2014-060, and its accompanying "Denton Municipal Electric - Energy Risk Management Policy", are repealed;

SECTION 2. The 2018 DENTON MUNICIPAL ELECTRIC - ENERGY RISK MANAGEMENT POLICY ("2018 ERMP"), attached hereto as Exhibit "A" and incorporated herewith by reference, is approved and adopted and that the Mayor, or his designee, is authorized to execute the same.

SECTION 3. The City Manager, or his designee, and City Secretary, or her designee, are authorized to execute, attest and deliver respectively, any and all other documents which are incident to, or are related to, or which arise under, which are authorized by said 2018 ERMP, and to take such other additional actions as the City Manager, or his designee shall determine to be necessary and appropriate to effectuate the matters set forth above.

SECTION 4. The recitations as are stated in the Preamble hereto are incorporated by reference and are made a part of this Ordinance.

SECTION 5. All subsequent actions taken by the Mayor, or his designee; the City Manager, or his designee; the City Attorney, or her designee; the City Secretary, or her designee; in furtherance of any future transactions that are authorized under said 2018 ERMP are ratified, confirmed, approved and authorized in all respects as of the dates and times that such actions will be taken.

SECTION 6. Immediately following the adoption by the Council of the 2018 ERMP, any and all subsequent documents and supporting documents which are executed pursuant to the 2018 ERMP are to be sealed by the City Secretary and maintained in her custody and control as documents which are 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. The expenditure of funds as provided for in this Ordinance is hereby authorized.

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

The motion to approve this ordinance was made by \_\_\_\_\_ and seconded by \_\_\_\_\_, the ordinance was passed and approved by the following vote [\_\_ - \_\_]:

Mayor Chris Watts: \_\_\_\_\_

Gerard Hudspeth, District 1: \_\_\_\_\_

Keely G. Briggs, District 2: \_\_\_\_\_

Don Duff, District 3: \_\_\_\_\_

John Ryan, District 4: \_\_\_\_\_

Dalton Gregory, At Large Place 5: \_\_\_\_\_

Sara Bagheri, At Large Place 6: \_\_\_\_\_

**PASSED AND APPROVED** this the \_\_\_\_\_ day of \_\_\_\_\_, 2018.

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

ATTEST:  
JENNIFER WALTERS, CITY SECRETARY

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

APPROVED AS TO LEGAL FORM:  
AARON LEAL, CITY ATTORNEY

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