

RESOLUTION NO. 37-2008

**A RESOLUTION OF THE CITY OF ABILENE, TEXAS, AUTHORIZING THE CITIES AGGREGATION POWER PROJECT, INC. (CAPP) TO NEGOTIATE AN ELECTRIC SUPPLY AGREEMENT FOR DELIVERIES OF ELECTRICITY AND NECESSARY, RELATED SERVICES EFFECTIVE JANUARY 1, 2009; AUTHORIZING CAPP TO ACT AS AN AGENT ON BEHALF OF THE CITY TO ENTER INTO A CONTRACT FOR ELECTRICITY; APPROVING CAPP CONTRACTING WITH FPL ENERGY AND DIRECT ENERGY AND AUTHORIZING THE CHAIRMAN OF CAPP TO EXECUTE AN ELECTRIC SUPPLY AGREEMENT FOR DELIVERIES OF ELECTRICITY EFFECTIVE JANUARY 1, 2009; COMMITTING TO BUDGET FOR ENERGY PURCHASES AND TO HONOR THE CITY'S COMMITMENTS TO PURCHASE POWER THROUGH CAPP FOR ITS ELECTRICAL NEEDS BEGINNING JANUARY 1, 2009 THROUGH DECEMBER 31, 2013.**

- WHEREAS,** the City of Abilene, Texas (City) is a member of Cities Aggregation Power Project, Inc. (CAPP), a nonprofit political subdivision corporation dedicated to securing electric power for its 111 political subdivision members in the competitive retail market; and
- WHEREAS,** CAPP negotiated favorable contract terms and a reasonable commodity price for delivered electricity since 2002 resulting in significant savings for its members; and
- WHEREAS,** the City's current contract for power expires December 31, 2008; and
- WHEREAS,** CAPP members must secure power supplies for 2009 or revert to high price standard contracts and independently shop for a power contract; and
- WHEREAS,** the CAPP Board of Directors is currently considering indicative retail energy prices that point to favorable pricing for the five year period ending December 31, 2013; and
- WHEREAS,** power providers desire to execute a contract with one, and only one, entity rather than have unique contracts for each CAPP member; and
- WHEREAS,** CAPP believes that the pricing opportunity window for favorable 2009 deliveries will be short-lived and that CAPP must be able to commit contractually to prices within a 24-hour period in order to lock-in favorable prices; and
- WHEREAS,** experiences in contracting for CAPP load since 2002 demonstrated that providers demand immediate response to an offer and may penalize delay with higher prices; and

**WHEREAS,** aggregated rates contracted during favorable pricing periods are likely to be lower than prices obtained by the City contracting individually during the same time period; and

**WHEREAS,** suppliers demand assurance that CAPP will pay for all contracted load; and

**WHEREAS,** the City needs to assure CAPP that it will budget for energy purchases and honor its commitments to purchase power for its electrical needs through CAPP for the period beginning January 1, 2009, and extending through December 31, 2013; and

**WHEREAS,** CAPP intends to continue to contract with both FPL Energy (power supply) and Direct Energy (billing, administrative and other customer services); and

**WHEREAS,** the current contractual relationships between CAPP and FPL Energy and Direct Energy have been beneficial and cost effective for CAPP members and the City.

**THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TAYLOR COUNTY, TEXAS:**

**PART 1:** That the CAPP Board and its consultants and advisors are agents authorized to negotiate for the City's electric power needs as a member of CAPP and to contract for the electric power supply and related, necessary services for the City for a term to begin January 1, 2009 and extending up to December 31, 2013.

**PART 2:** That the City approves CAPP contracting with FPL Energy and Direct Energy for the supply of electric power and related, necessary services for the City for a term to begin January 1, 2009 and extending up to December 31, 2013.

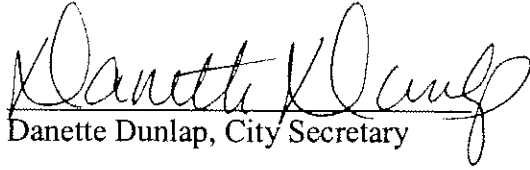
**PART 3:** That the Chairman of CAPP is hereby authorized to sign a Commercial Electric Service Agreement ("CESA") for the City pursuant to the contract approved and recommended by the CAPP Board of Directors within 24 hours of said approval and recommendation.

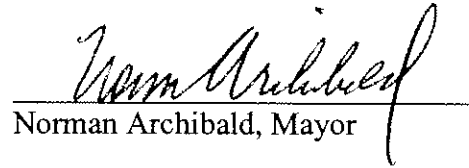
**PART 4:** That the City will budget and approve funds necessary to pay electricity costs proportionate to the City's load under the supply agreement arranged by CAPP and the CESA signed by the Chairman of CAPP on behalf of the City for the term beginning January 1, 2009 and extending up to December 31, 2013.

**PART 5:** That a copy of the resolution shall be sent to Mary Bunkley with the City Attorney's office in Arlington and Geoffrey M. Gay, legal counsel to CAPP.

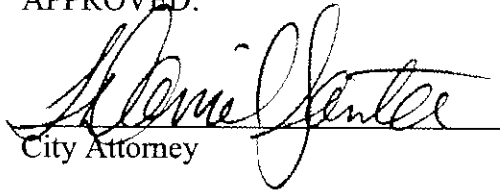
Adopted this 28th day of October, 2008.

ATTEST:

  
Danette Dunlap, City Secretary

  
Norman Archibald, Mayor

APPROVED:

  
City Attorney