

NEW LEGISLATION

June 8, 2020

Temp. No.	Introduced	Committee	Description
A-32	6/8/20	Fin	An ordinance amending Ordinance 92-2019 to authorize the Director of Public Service to enter into a contract or contracts, according to law, for the purchase of annual requirements of certain materials and supplies for use by the Division of Sanitation during 2020, and declaring an emergency.
A-33	6/8/20	Fin	An ordinance authorizing the Director of Public Service to enter into a contract or contracts, according to law, for overhead line clearance services including tree maintenance, tree and brush removal services, and mowing, for a period not to exceed three years, and declaring an emergency.
A-34	6/8/20	Fin	An ordinance authorizing the Director of Law to enter into a settlement agreement and release in the case of <i>City of Cuyahoga Falls v. Johnson Controls, Inc., et al</i> ; authorizing the director of public services to enter into contracts, without competitive bidding with Aclara Technologies LLC, as successor to Aclara RF Systems Inc., Badger Meter, Inc. and Conxx, Inc. in connection with the settlement agreement to provide the City with an upgraded automated meter reading system, and declaring an emergency.
A-35	6/8/20	PI	An ordinance authorizing the Parks and Recreation Board to enter into a contract or contracts, according to law, for the Water Works Family Aquatic Center phase I pool surface refinish project, and declaring an emergency.

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CALENDAR

June 8, 2020

The following legislation will be up for passage at the Council Meeting on June 8, 2020.

Temp. No.	Introduced	Committee	Description
A-27	5/26/20	PZ	An ordinance authorizing and approving a conditional zoning certificate for the construction and operation of an AT&T Mobility wireless-cellular communication tower at Blossom Music Center at 1145 West Steels Corners Road, and declaring an emergency.
A-28	5/26/20	PZ	An ordinance authorizing and approving the Final Subdivision Plat and Improvement Plans for the Towns at Steels Corners on parcels 35-03697 and 35-03632 and declaring an emergency.
A-29	5/26/20	Fin	An ordinance authorizing the Director of Public Service to enter into a contract or contracts, without competitive bidding, with Thompson Electric, J.F. Electric, Inc., Hydaker-Wheatlake Company, Vaughn Industries, and Kent Power for make ready work in connection with small cell wireless 5G technology and declaring an emergency.
A-30	5/26/20	PI	An ordinance authorizing the Director of Public Service to enter into a contract or contracts, according to law, for the repair and reconstruction of concrete pavement at various locations in the city, and declaring an emergency.

PENDING LEGISLATION

June 8, 2020

Temp. No.	Introduced	Committee	Description
A-27	5/26/20	PZ	An ordinance authorizing and approving a conditional zoning certificate for the construction and operation of an AT&T Mobility wireless-cellular communication tower at Blossom Music Center at 1145 West Steels Corners Road, and declaring an emergency.
A-28	5/26/20	PZ	An ordinance authorizing and approving the Final Subdivision Plat and Improvement Plans for the Towns at Steels Corners on parcels 35-03697 and 35-03632 and declaring an emergency.
A-29	5/26/20	Fin	An ordinance authorizing the Director of Public Service to enter into a contract or contracts, without competitive bidding, with Thompson Electric, J.F. Electric, Inc., Hydaker-Wheatlake Company, Vaughn Industries, and Kent Power for make ready work in connection with small cell wireless 5G technology and declaring an emergency.
A-30	5/26/20	PI	An ordinance authorizing the Director of Public Service to enter into a contract or contracts, according to law, for the repair and reconstruction of concrete pavement at various locations in the city, and declaring an emergency.
A-31	5/26/20	CD	An ordinance approving the creation of a public art board and various public art regulatory text amendments in accordance with Cuyahoga Falls General Development Code, and declaring an emergency.

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3 CITY OF CUYAHOGA FALLS, OHIO
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5 ORDINANCE NO - 2019
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7 AN ORDINANCE AMENDING ORDINANCE 92-2019 TO AUTHORIZE
8 THE DIRECTOR OF PUBLIC SERVICE TO ENTER INTO A
9 CONTRACT OR CONTRACTS, ACCORDING TO LAW, FOR THE
10 PURCHASE OF ANNUAL REQUIREMENTS OF CERTAIN MATERIALS
11 AND SUPPLIES FOR USE BY THE DIVISION OF SANITATION
12 DURING 2020, AND DECLARING AN EMERGENCY.
13

14 BE IT ORDAINED by the Council of the City of Cuyahoga Falls, County of Summit and State of
15 Ohio, that:

16
17 Section 1. The Director of Public Service is hereby authorized to enter into a contract or
18 contracts, according to law, for the purchase of the following materials and supplies for use in the
19 Division of Sanitation during 2020:

20
21 Wheeled Refuse Containers
22

23 Notwithstanding and as an exception to Section 181.06 of the Codified Ordinances, expenditures
24 made under the contracts authorized by this ordinance shall not exceed, in the aggregate, \$302,000,
25 without further consent of City Council by ordinance.
26

27 Section 2. The Director of Finance is hereby authorized and directed to make payment for same
28 from the Sanitation Fund, line item Other Operations and increasing appropriations in the Sanitation
29 Fund, line item Other Operations by \$137,000.
30

31 Section 3. Any other ordinances and resolutions or portions of ordinances and resolutions
32 inconsistent herewith are hereby repealed, but any ordinances and resolutions or portions of
33 ordinances and resolutions not inconsistent herewith and which have not previously been repealed are
34 hereby ratified and confirmed.
35

36 Section 4. It is found and determined that all formal actions of this Council concerning and
37 relating to the adoption of this ordinance were adopted in an open meeting of this Council and that all
38 deliberations of this Council and of any of its committees that resulted in such formal action were in
39 meetings open to the public, in compliance with all legal requirements including Chapter 107 of the
40 Codified Ordinances and Substitute House Bill 197 passed by the 133rd General Assembly.
41

42 Section 5. This ordinance is hereby declared to be an emergency measure necessary for the
43 preservation of the public peace, health, safety, convenience and welfare of the City of Cuyahoga Falls
44 and the inhabitants thereof and provided it receives the affirmative vote of two-thirds of the members
45 elected or appointed to Council, it shall take effect and be in force immediately upon its passage and
46 approval by the Mayor; otherwise it shall take effect and be in force at the earliest period allowed by
47 law.
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51 Passed: _____

President of Council

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Clerk of Council

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59 Approved: _____

Mayor

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62 6/8/20

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3 CITY OF CUYAHOGA FALLS, OHIO

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5 ORDINANCE NO - 2020

6
7 AN ORDINANCE AUTHORIZING THE DIRECTOR OF
8 PUBLIC SERVICE TO ENTER INTO A CONTRACT OR
9 CONTRACTS, ACCORDING TO LAW, FOR OVERHEAD
10 LINE CLEARANCE SERVICES INCLUDING TREE
11 MAINTENANCE, TREE AND BRUSH REMOVAL
12 SERVICES, AND MOWING, FOR A PERIOD NOT TO
13 EXCEED THREE YEARS, AND DECLARING AN
14 EMERGENCY.
15

16 BE IT ORDAINED by the Council of the City of Cuyahoga Falls, County of Summit
17 and State of Ohio, that:

18
19 Section 1. The Director of Public Service is hereby authorized to enter into a
20 contract or contracts, according to law, for overhead line clearance services, including
21 tree maintenance, tree and brush removal services, and mowing, for a period not to
22 exceed three years.
23

24 Section 2. The Director of Finance is hereby authorized and directed to make
25 payment for same from the Electric Fund, Line Item Other Operations.
26

27 Section 3. Any other ordinances and resolutions or portions of ordinances and
28 resolutions inconsistent herewith are hereby repealed, but any ordinances and
29 resolutions or portions of ordinances and resolutions not inconsistent herewith and
30 which have not previously been repealed are hereby ratified and confirmed.
31

32 Section 4. It is found and determined that all formal actions of this Council
33 concerning and relating to the adoption of this ordinance were adopted in an open
34 meeting of this Council and that all deliberations of this Council and of any of its
35 committees that resulted in such formal action were in meetings open to the public, in
36 compliance with all legal requirements including Chapter 107 of the Codified
37 Ordinances and Substitute House Bill 197 passed by the 133rd General Assembly.
38

39 Section 5. This ordinance is hereby declared to be an emergency measure necessary
40 for the preservation of the public peace, health, safety, convenience and welfare of the
41 City of Cuyahoga Falls and the inhabitants thereof and provided it receives the
42 affirmative vote of two-thirds of the members elected or appointed to Council, it shall
43 take effect and be in force immediately upon its passage and approval by the Mayor;
44 otherwise it shall take effect and be in force at the earliest period allowed by law.
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47 Passed: _____

President of Council

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Clerk of Council

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55 Approved: _____

Mayor

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58 6/8/20

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4 CITY OF CUYAHOGA FALLS, OHIO

5
6 ORDINANCE NO. - 2020

7
8 AN ORDINANCE AUTHORIZING THE DIRECTOR OF LAW TO
9 ENTER INTO A SETTLEMENT AGREEMENT AND RELEASE IN
10 THE CASE OF CITY OF CUYAHOGA FALLS V. JOHNSON
11 CONTROLS, INC., ET AL; AUTHORIZING THE DIRECTOR OF
12 PUBLIC SERVICES TO ENTER INTO CONTRACTS, WITHOUT
13 COMPETITIVE BIDDING WITH ACLARA TECHNOLOGIES LLC,
14 AS SUCCESSOR TO ACLARA RF SYSTEMS INC., BADGER
15 METER, INC. AND CONXX, INC. IN CONNECTION WITH THE
16 SETTLEMENT AGREEMENT TO PROVIDE THE CITY WITH AN
17 UPGRADED AUTOMATED METER READING SYSTEM, AND
18 DECLARING AN EMERGENCY.
19

20
21 WHEREAS, on July 24, 2008, the City and Johnson Controls, Inc. (“JCI”) entered into an
22 energy savings performance contract whereby the City obtained, among other things, a new
23 electronic system for the automatic reading of the City’s electric and water meters; and
24

25 WHEREAS, the project included the City’s purchase of numerous pieces of hardware and
26 software, including but not limited to new water and electric meters, meter transmitting units and
27 data collection units (hereinafter referred to as the “Project”); and
28

29 WHEREAS, the procurement process for the Project involved the following parties and
30 contracts: (i) the City contracted with JCI to provide the entire Project to the City; and (ii) JCI
31 subcontracted with Aclara Technologies LLC, as successor to Aclara RF Systems Inc. (“Aclara”),
32 Badger Meter, Inc. (“Badger”) and Conxx, Inc. (“Conxx”) and others to supply various portions of
33 the Project; and
34

35 WHEREAS, the City became aware that Project was not performing as promised and the
36 Parties became involved in a dispute regarding the performance of the system; and
37

38 WHEREAS, the Parties dispute regarding the performance of the Project gave rise to a civil
39 action commenced by the City in Summit County Common Pleas Court and subsequently
40 removed to the United States District Court for the Northern District of Ohio, Eastern Division,
41 and docketed as Court File No. 5:18-CV-01130 (the “Action”). The Parties have made various
42 claims against each other in the Action, including claims for damages regarding the design,
43 installation and the functioning of the Project; and
44

45 WHEREAS, during the course of the litigation, the Parties agreed to mediation before the
46 Honorable Mediator John M. Harens, Esq., which mediation was held on May 29, 2020; and
47

48 WHEREAS, due to the mediation, the Parties reached a settlement of their disputes pending
49 approval by Cuyahoga Falls City Council, which settlement includes monetary compensation and
50 discounts to the City along with goods and services from Aclara, Badger and Conxx which will
51 enable the City to upgrade to a fully functional automated meter reading system at a substantial
52 cost savings to the City; and
53

54 WHEREAS, settlement of this matter is in the best interest of the City and will prevent
55 further time delays and litigation expenses resulting from the lawsuit.
56

57 NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Cuyahoga Falls, County
58 of Summit, and State of Ohio, that:
59
60

61 Section 1. The Director of Law is hereby authorized to execute a Settlement Agreement and
62 Release in the case of *The City of Cuyahoga Falls v. Johnson Controls, Inc., et al*, United States
63 District Court, Northern District of Ohio, Eastern Division, Case No. 5:18-CV-01130, based upon
64 the negotiated proposal presented to City Council on June 8, 2020.
65

66 Section 2. The Director of Public Service is hereby authorized to enter into contracts,
67 without competitive bidding, with Aclara, Badger and Conxx in connection with the provisions of
68 the Settlement Agreement and Release and to further provide the City with an upgraded
69 automated meter reading system.
70

71 Section 3. The Director of Law, Director of Public Service, Director of Finance and any
72 other necessary City official are hereby authorized to provide such information and to execute
73 such other documents and do all other actions as are necessary for and incidental to carrying out
74 the requirements of this ordinance and the terms of the Settlement Agreement and Release.
75

76 Section 4. Any ordinances or resolutions or portions of ordinances and resolutions
77 inconsistent herewith are hereby repealed, but any ordinances and resolutions not inconsistent
78 herewith and which have not previously been repealed are hereby ratified and confirmed.
79

80 Section 5. It is found and determined that all formal actions of this Council concerning
81 and relating to the passage of this ordinance were taken in an open meeting of this Council and
82 that all deliberations of this Council and of any committees that resulted in those formal actions
83 were in meetings open to the public, in compliance with all legal requirements including Chapter
84 107 of the Codified Ordinances and Substitute House Bill 197 passed by the 133rd General
85 Assembly.
86

87 Section 6. This ordinance is hereby declared to be an emergency measure necessary for
88 the preservation of the public peace, health, safety, convenience and welfare of the City of
89 Cuyahoga Falls and the inhabitants thereof, and provided it receives the affirmative vote of two-
90 thirds of the members elected or appointed to Council, it shall take effect and be in force
91 immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in
92 force at the earliest period allowed by law.
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95 Passed: _____
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97 President of Council

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99 _____
100 Clerk of Council

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103 Approved _____
104 _____
105 Mayor

105 6/8/20

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5 CITY OF CUYAHOGA FALLS, OHIO

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7 ORDINANCE NO. - 2020

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9 AN ORDINANCE AUTHORIZING THE PARKS AND RECREATION
10 BOARD TO ENTER INTO A CONTRACT OR CONTRACTS,
11 ACCORDING TO LAW, FOR THE WATER WORKS FAMILY
12 AQUATIC CENTER PHASE I POOL SURFACE REFINISH
13 PROJECT, AND DECLARING AN EMERGENCY.
14

15 WHEREAS, the pool surface at Water Works Family Aquatic Center is now 20 years old and is
16 reaching its effective life cycle; and
17

18 WHEREAS, the resurfacing will occur in the late summer of 2020 and will be completed
19 before harsher weather affects construction schedules; and
20

21 WHEREAS, the resurfacing, with proper application and maintenance, will afford the pool
22 surface another 20 years of life expectancy.
23

24 NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Cuyahoga Falls, County
25 of Summit and State of Ohio, that:
26

27 Section 1. The Parks and Recreation Board is hereby authorized to enter into a contract or
28 contracts, according to law, for the Water Works Family Aquatic Center Phase I pool surface
29 refinish project.
30

31 Section 2. The Finance Director is hereby authorized and directed to make payment for same
32 from the Recreation Levy Fund, line item Capital Outlay.
33

34 Section 3. Any other ordinances and resolutions or portions of ordinances and resolutions
35 inconsistent herewith are hereby repealed, but any ordinances and resolutions or portions of
36 ordinances and resolutions not inconsistent herewith and which have not previously been
37 repealed are hereby ratified and confirmed.
38

39 Section 4. It is found and determined that all formal actions of this Council concerning and
40 relating to the adoption of this resolution were adopted in an open meeting of this Council and
41 that all deliberations of this Council and of any of its committees that resulted in such formal
42 action were in meetings open to the public, in compliance with all legal requirements including
43 Chapter 107 of the Codified Ordinances and Substitute House Bill 197 passed by the 133rd
44 General Assembly.
45

46 Section 5. This ordinance is hereby declared to be an emergency measure necessary for the
47 preservation of the public peace, health, safety, convenience and welfare of the City of Cuyahoga
48 Falls and the inhabitants thereof, and provided it receives the affirmative vote of two-thirds of the
49 members elected or appointed to Council, it shall take effect and be in force immediately upon its
50 passage and approval by the Mayor; otherwise it shall take effect and be in force at the earliest
51 period allowed by law.
52

53
54 Passed: _____

President of Council

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57 _____
58 Clerk of Council

59
60 Approved: _____

Mayor

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62 6/8/2020