

2 CITY OF CUYAHOGA FALLS, OHIO

3
4 ORDINANCE NO. 37 - 2011

5
6 AN ORDINANCE AUTHORIZING THE DIRECTOR OF
7 PUBLIC SERVICE TO ENTER INTO AN ENERGY
8 PURCHASE AGREEMENT KNOWN AS THE "EDI
9 LANDFILL ENERGY SCHEDULE" WITH AMERICAN
10 MUNICIPAL POWER, INC., AND DECLARING AN
11 EMERGENCY.
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15 WHEREAS, the City owns and operates an electric utility system for the sale of
16 electric power and associated energy for the benefit of its citizens and taxpayers; and
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18 WHEREAS, in order to satisfy the electric energy requirements of its electric utility
19 system, the City has heretofore purchased electric capacity and energy from American
20 Municipal Power, Inc. ("AMP"), of which the City is a Member; and
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22 WHEREAS, AMP and the City have entered into a Master Services Agreement
23 ("MSA"), which sets forth general terms and conditions under which, among other
24 things, AMP may sell and the City may purchase electric capacity and energy and other
25 services through Schedules to the MSA; and
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27 WHEREAS, in furtherance of this purpose, AMP and Bio Gas Ohio, LLC ("EDI"),
28 have entered into an agreement (the "EDI Landfill Energy Agreement") under the terms
29 of which AMP is to purchase and EDI is to supply and sell up to 56 MW of capacity and
30 associated energy from landfill energy systems at Landfill Facilities in Oberlin, Port
31 Clinton and Poland, Ohio for a period of ten (10) years; and
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33 WHEREAS, AMP Members now have the right, but not obligation by the enactment
34 of this ordinance to authorize and request AMP to acquire capacity and energy from
35 Landfill Facilities by approval and execution of the EDI Landfill Energy Schedule
36 authorized below;
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38 NOW THEREFORE, BE IT ORDAINED by the Council of the City of Cuyahoga Falls,
39 County of Summit, State of Ohio, that:
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41 Section 1. The Director of Public Service is authorized to enter into an energy
42 purchase agreement known as the "EDI Landfill Energy Schedule" between the City and
43 AMP, substantially in the form on file with the Clerk, including Exhibits thereto, and
44 the Director of Public Service is hereby authorized to execute and deliver the EDI
45 Landfill Energy Schedule with such changes as the Director of Public Service City may
46 approve as neither inconsistent with this ordinance nor materially adverse to the City.
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48 Section 2. The Director of Public Service is hereby authorized to (i) acquire under
49 the EDI Landfill Energy Schedule, authorized above, a Contract Amount as defined in
50 that Schedule of up to 2430 kW without bid, and (ii) make any determinations and
51 approvals required thereunder, if any, as the Director of Public Service shall deem
52 necessary and advisable.
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54 Section 3. If any section, subsection, paragraph, clause or provision or any part
55 thereof of this ordinance shall be finally adjudicated by a court of competent

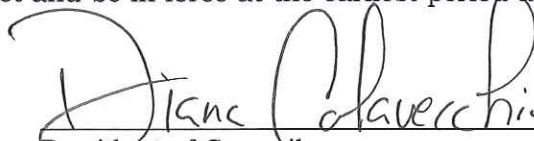
56 jurisdiction to be invalid; the remainder of this ordinance shall be unaffected by such
57 adjudication and all the remaining provisions of this ordinance shall remain in full force
58 and effect as though such section, subsection, paragraph, clause or provision or any
59 part thereof so adjudicated to be invalid had not, to the extent of such invalidity, been
60 included herein.

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62 Section 4. Any other ordinances and resolutions or portions of ordinances and
63 resolutions inconsistent herewith are hereby repealed, but any ordinances and
64 resolutions or portions of ordinances and resolutions not inconsistent herewith and
65 which have not previously been repealed are hereby ratified and confirmed.

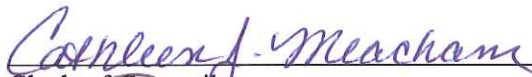
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67 Section 5. It is found and determined that all formal actions of this Council
68 concerning and relating to the passage of this ordinance were taken in an open meeting
69 of this Council and that all deliberations of this Council and of any committees that
70 resulted in those formal actions were in meetings open to the public, in compliance with
71 all legal requirements including Chapter 107 of the Codified Ordinances.

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73 Section 6. This ordinance is hereby declared to be an emergency measure
74 necessary for the preservation of the public peace, health, safety, convenience and
75 welfare of the City of Cuyahoga Falls and the inhabitants thereof, and provided it
76 receives the affirmative vote of two-thirds of the members elected or appointed to
77 Council, it shall take effect and be in force immediately upon its passage and approval
78 by the Mayor; otherwise it shall take effect and be in force at the earliest period allowed
79 by law.

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82 Passed: 4-11-11

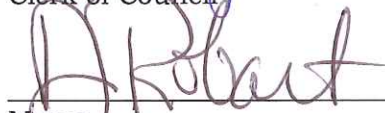


President of Council



Clerk of Council

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90 Approved: 4/12/11



Mayor