Resolution
Version 2.3 released on 8/3/21

CITY COUNCIL USE ONLY	Tracking #: _____		**CITY CLERK USE ONLY**
Date Received: _____	Committee: _____	☐ Scanned	Date: 10.12.2022
Committee Date: _____	Hearing Date: _____	☐ Posted	Item #: 2210_02296
1st Agenda Date: _____	2nd Agenda Date: _____		

All department items requiring Council approval must be submitted through the Mayor's Office.

Board Approval
Tulsa Authority for Recovery of Energy

Other Board Name
_____

City Council Approval
● Yes   ○ No

Department	**Contact Name**	**Email**	**Phone**
Streets and Stormwater	Terry Ball	tball@cityoftulsa.org	918-596-9715

Resolution Type
Incurring Indebtedness of Trust or Authority

Owner-Grantor

Amount	**Case Number**	**TMAPC Number**	**Council District**

Description (Subject)
Resolution approving contingent obligation to be assumed by TARE in its contract with Covanta

Bid/Project Number

Section	**Township**	**Range**	**Addition**

Lot	**Block**	**Address**	

Funding Source(s)

TOTAL:

		Date:
Department:	*Tball - by JCB*	10.10.22
Legal:	*(signature)*	10.10.22
Board:	*(signature)*	Date:
Mayor:	*(signature)*	Date: OCT 12 2022
Other:		Date:

Background Information
This is a resolution approving an obligation to be incurred by the Tulsa Authority for Recovery of Energy (TARE), by which TARE will enter into an agreement with Covanta Tulsa Renewable Energy, LLC, to address certain unforeseen circumstances as prescribed by the agreement, in an amount not to exceed seven million five hundred seventy-five thousand dollars ($7,575,000.00); and declaring an emergency.

Summation of the Requested Action
Request City Council approval

Emergency Clause?
● Yes
○ No

Reason for Emergency Clause
The current agreement with Covanta expires on 10-31-22, and this approval is necessary to secure an agreement for continuity of service beyond that date. Disruption in service would negatively affect the health, safety, and welfare of Tulsa citizens.

Post Execution Processing
☐ Mail vendor copy (addt'l signature copies attached)
☐ Must be filed with other governmental entity
☐ Addt'l governmental entity approval(s) required

Additional Routing and Processing Details

RESOLUTION _____

A RESOLUTION RELATING TO THE INCURRING OF INDEBTEDNESS BY TRUSTEES OF THE TULSA AUTHORITY FOR RECOVERY OF ENERGY BY ENTERING INTO THAT CERTAIN AGREEMENT WITH COVANTA TULSA RENEWABLE ENERGY, LLC, TO ADDRESS CERTAIN UNFORESEEN CIRCUMSTANCES AS PRESCRIBED BY THE AGREEMENT, NOT TO EXCEED SEVEN MILLION FIVE HUNDRED SEVENTY-FIVE THOUSAND DOLLARS ($7,575,000.00); AND DECLARING AN EMERGENCY.

WHEREAS, the Tulsa Authority for Recovery of Energy (the "Authority") was created by a Declaration of Trust, dated as of November 11, 1977, for the use and benefit of the City of Tulsa, Oklahoma (the "City"), under authority of and pursuant to the provisions of Title 60, Oklahoma Statutes 2021, Section 176 to 180.3, inclusive, as amended and supplemented, and other applicable statutes of the State of Oklahoma; and

WHEREAS, the Authority's currently existing contract for Disposal of Solid Waste, Green Waste and Rejects Resulting in Recovery of Energy and/or Recyclable Materials will expire on October 31, 2022; and

WHEREAS, the Authority issued a Request for Proposals (the "RFP") on March 24, 2022, for the disposal of solid waste with energy and/or materials recovery, (the "Services"), and in response to the RFP received only one proposal, that of Covanta Tulsa Renewable Energy, LLC ("Covanta"); and

WHEREAS, the Authority anticipates entering into an Agreement for Disposal of Solid Waste and Green Waste Resulting in Recovery of Energy and/or Recyclable Materials with Covanta ("Agreement") for an initial term of fifteen (15) years with the option to extend the Agreement for an additional five (5) years; and

WHEREAS, the Agreement addresses a contingency for certain "Unforeseen Circumstances," which include not only *force majeure* events but also changes in the law or other conditions beyond the reasonable control of a party, and which would justify

non-performance of an obligation or noncompliance with a required condition if they materially, adversely interfere with or delay a party's performance of its obligations under the Agreement;

WHEREAS, the Agreement includes a "Cost Recovery" provision for such contingency, which allocates between Covanta and TARE the contingent future costs to overcome or resolve the effect of such Unforeseen Circumstances based on a prescribed ratio between the parties; and

WHEREAS, the cap on TARE's obligation is $6,060,000 for costs totaling up to $20 million, with a similar ratio applied to a maximum excess threshold of $5 million, where TARE's share would be $1,515,000, for a total contingent obligation of $7,575,000 under the terms of the Agreement.

BE IT RESOLVED BY THE CITY OF TULSA, OKLAHOMA:

Section 1.   The City Council of the City of Tulsa, the governing body of said City, hereby approves the contingent indebtedness or obligation incurred by TARE for the allocated costs of certain "Unforeseen Circumstances" as prescribed by the Agreement and any renewals, not to exceed Seven Million Five Hundred Seventy-five Thousand Dollars ($7,575,000.00).

Section 2.   The Council finds and determines that TARE has an immediate need to incur the debt or obligation evidenced by the Agreement, and that an emergency is hereby found and declared to exist such that it is necessary for the preservation of the public peace, health, safety, and welfare that this resolution take effect upon the Mayor's signature.

ADOPTED by the Council _____
                                (Date)

ADOPTED as an emergency measure_____
                                                (Date)

                                _____
                                Chair of the Council

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OFFICE OF THE MAYOR

Received by the Mayor: _____, at _____.

          Date   Time

G.T. Bynum, Mayor

By:_____

       Secretary

APPROVED by the Mayor of the City of Tulsa, Oklahoma: _____,

                     Date

at _____.

 Time

_____

G.T. Bynum, Mayor

(Seal)
ATTEST:

_____

  City Clerk

APPROVED:

_____

  City Attorney

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