

THIS IS A DRAFT AND WILL BE REPLACED BY THE FINAL, SIGNED ORDINANCE OR RESOLUTION ADOPTED BY CITY COUNCIL.

AN ORDINANCE

AUTHORIZING A FIRST AMENDMENT TO THE COMPETITIVE MATTER MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN THE CITY AND CPS ENERGY AS AUTHORIZED BY ORDINANCE NO. 100709 ON APRIL 14, 2005.

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WHEREAS, CPS Energy operates a combined electric and gas utility system on behalf of the City of San Antonio through the CPS Energy Board of Trustees; and

WHEREAS, pursuant to Chapter 1502 of the Texas Government Code, the City Council, acting in its regulatory capacity, has original jurisdiction over the retail and wholesale rates of CPS Energy; and

WHEREAS, the City Charter created the position of Supervisor of Public Utilities who is authorized to oversee the activities of CPS Energy and to gather and analyze information necessary for the City Council to establish fair and reasonable rates; and

WHEREAS, as a return on its investment in this electric and gas utility, the City of San Antonio receives from CPS Energy a payment generally calculated as 14% of CPS' gross revenues (the "City Payment"); and

WHEREAS, on April 14, 2005, the City Council approved the Competitive Matter Memorandum of Understanding (the "MOU") between the City and CPS Energy pursuant to Ordinance No. 100709 which allowed the utility greater flexibility in pursuing certain gas sales in order to effectively compete for and attract new customers as well as retain existing customers; and

WHEREAS, CPS Energy recently concluded negotiations of an agreement with the University of Texas at San Antonio (UTSA) entitled "CPS Energy Schedule of Appropriate Gas Rate Extended Schedule Agreement" (the "Agreement") for the purchase by UTSA of natural gas, and approval by the City Council of an amendment to the MOU to authorize this Agreement is required because it impacts the calculation of the City Payment received from CPS Energy; and

WHEREAS, the Supervisor of Public Utilities concurs with the CPS Energy proposed First Amendment to the MOU, which is attached under seal to this Ordinance as **Exhibit A**; and

WHEREAS, the MOU and the proposed First Amendment to the MOU are competitive matters subject to protection from public disclosure pursuant to Section 552.133 of the Texas Public Information Act (Chapter 552 of the Texas Government Code); and

WHEREAS, on May 13, 2015, the City Council met in executive session to discuss the proposed First Amendment to the MOU after determining by a unanimous vote that the subject

matter of the amendment is an appropriate competitive matter in accordance with Section 551.086 of the Texas Open Meetings Act (Chapter 551 of the Texas Government Code); and

WHEREAS, as a competitive matter, the First Amendment to the MOU is competitively sensitive information the disclosure of which would confer an unfair advantage upon actual and prospective competitors of CPS Energy in the wholesale electric market; and

WHEREAS, this Ordinance shall remain on file for public access at the City Clerk’s Office, however the First Amendment to the MOU shall not be attached, but shall filed under seal and remain confidential; **NOW THEREFORE:**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. The First Amendment to the Competitive Matter Memorandum of Understanding between the City and CPS Energy previously approved by City Council on April 14, 2005 is hereby approved and authorized. The City Manager or the Supervisor of Public Utilities is authorized to execute the First Amendment. The First Amendment shall be executed in triplicate originals and each original shall be clearly marked “Confidential – Competitively Sensitive Information” and maintained by the Supervisor of Public Utilities, CPS Energy, and in the executive session files of the City Clerk.

SECTION 2. The First Amendment shall be attached to this Ordinance as **Exhibit A** and shall remain under seal with instructions to the City Clerk not to release the First Amendment to the public.

SECTION 3. This Ordinance shall become effective immediately upon passage by eight (8) votes of the City Council and if passed upon fewer than eight (8) votes after the tenth (10th) day after passage thereof.

PASSED AND APPROVED, this _____ day of May, 2015.

M A Y O R
Ivy R. Taylor

ATTEST:

APPROVED AS TO FORM:

Leticia M. Vacek
City Clerk

Martha G. Sepeda
Acting City Attorney